

1 Culebra location and you had the day care facility, were
2 you paying any taxes for that service?

3 A. No.

4 Q. Okay. And so that service is not taxed?

5 A. Well, the thing is, is that we don't pay -- If
6 you are leasing a facility, part of your lease payment
7 per month is to pay the taxes on that property. Okay.
8 We are not exempt from paying those taxes because we are
9 a church because we are leasing. The other guy still
10 has to pay the taxes.

11 Q. The owner still has to pay the taxes?

12 A. The owner still has to pay the taxes. And just
13 because we are a religious organization, that does not
14 exclude him.

15 Q. Right.

16 A. So we pay the taxes third party that way. But
17 once we are, you know, in a facility, you know, that's
18 in our name, we don't have to. We are not --

19 Q. I understand that.

20 A. Okay.

21 Q. And one of the things that I'm pointing at
22 right now, the bank owns the facility --

23 A. Yes.

24 Q. -- so they have to pay taxes?

25 A. Right. I would assume that they are doing

1 that.

2 Q. Okay. But when you were in Culebra, when --
3 did you have to pay any sort of retail or sales tax or
4 anything like that for the services?

5 A. No.

6 Q. Okay. And is that because you are a religious
7 organization?

8 A. Right.

9 Q. Okay.

10 A. Yes, sir.

11 Q. Okay. And I'm talking about for the day care
12 services?

13 A. Right. It still falls under the auspices of
14 the church.

15 Q. Okay. It's part of your religious mission,
16 right?

17 MR. HENRY: Okay. Why don't we go ahead
18 and break for lunch. I think this is a good stopping
19 point.

20 THE WITNESS: Okay.

21 MR. HENRY: And we can pick up afterwards.
22 Is that okay with you, Dan?

23 MR. WHITWORTH: Yeah. You want to meet
24 back here at 1:00?

25 MR. HENRY: Yeah.

1 MR. WHITWORTH: Or do you want to take a
2 little longer?

3 MR. HENRY: 1:00 is fine with me.

4 THE VIDEOGRAPHER: We are off the record
5 at 12:17 p.m.

6 (Short break from 12:17 to 1:33)

7 THE VIDEOGRAPHER: We are back on the
8 record. The time is 1:33 p.m.

9 Q. (BY MR. HENRY) Pastor Crain, before our break,
10 we were talking about your purchase or your attempted
11 purchase and then your lease of the Bandera Road
12 property.

13 A. (Witness nodding).

14 Q. Okay?

15 A. Yes, sir.

16 Q. I want to kind of pick back up along those
17 lines. You testified earlier that you appeared before
18 the zoning commission --

19 A. Yes, sir.

20 Q. -- on two separate occasions?

21 A. Yes, sir.

22 Q. And requested that the property at Bandera
23 County (sic) be rezoned?

24 A. Yes, sir.

25 Q. Okay. Now, at both commission hearings, did

1 the council recommend denial?

2 A. No, sir.

3 Q. Okay.

4 A. At the first -- not the council. The
5 commission. The city council is different. The zoning
6 commission heard from the citizenry, heard from our
7 attorney, Patrick Christensen. I was able to speak.

8 And at that meeting, our attorney,
9 Mr. Christensen, told us we are not going to win
10 anything at this meeting. What we are wanting them to
11 do is either -- we are wanting them to take time to
12 think about it or to reconsider or something like that.

13 The -- There was a staffer, I don't
14 remember what her name was, from Leon Valley, and she
15 basically said that we are -- are -- going back to --
16 The original zoning does not fit with the current master
17 plan. And she let them know about that, and they --
18 they heard, you know us. They heard from the citizenry
19 and they heard her.

20 And they said, you know what, we will
21 think about it. And basically I think they wanted to
22 talk to the attorneys is what they said, and, you know,
23 whatever. So that's what we did.

24 Then we came the back the following month,
25 and we talked with them again and that's when they

1 denied it. Well, they didn't say they would deny it.
2 They were going to recommend denial to the city council.

3 Q. Okay. So the first zoning commission hearing
4 was really -- that was the first public hearing that
5 they held, right?

6 A. That was the first public hearing we attended.

7 Q. Okay.

8 A. I'm not sure if there was any prior to, but
9 that was the first one we attended.

10 Q. Okay. And then at the second zoning commission
11 hearing, they had a vote, correct?

12 A. Yes, sir, I believe so.

13 Q. And they voted to recommend to the city council
14 that the application to rezone that property be denied?

15 A. Yes, sir.

16 Q. Okay. Now, did you attend any city council
17 meeting?

18 A. No, sir, we did not.

19 Q. Okay. Not with regard to the application to
20 rezone?

21 A. Not any -- not any of them.

22 Q. Have you ever attended a Leon Valley City
23 Council meeting?

24 A. I have gotten enough tickets there, but I don't
25 think I actually attended a city council meeting.

1 Q. Okay. So is your -- Go ahead.

2 A. I'm sorry. Earlier I talked about speaking
3 with the mayor and I spoke with the city manager, Lanny
4 Lambert, on two separate occasions. It was not at the
5 city council meeting.

6 Q. Okay.

7 A. It was just meetings we had before.

8 Q. You went into their office?

9 A. Right.

10 Q. Okay. And so that wasn't a public meeting?

11 A. No.

12 Q. Okay. Now, was that before or after the zoning
13 commission meetings or in between?

14 A. In between, after. It was right around that
15 same time -- that same time period. One of them I
16 initiated and then one of them they initiated.

17 Q. Okay. And you weren't able to come to any sort
18 of --

19 A. No. It was -- Again, like I stated before,
20 they were very cordial. They were not, you know -- they
21 are very, very nice people. You know, we talked for a
22 while. It's just -- we just couldn't see, you know, eye
23 to eye. They were just very --

24 You know, they had taken the
25 recommendation of the -- the city staffer. I can't

1 remember what her name is. But in one of the meetings,
2 she was in there with us. And basically they pulled out
3 the master plan, and they said, you know, this does not
4 fit in with having our retail on the Bandera corridor,
5 you know, by allowing a church to be there.

6 And I think we may have talked about a
7 variance to the -- to the zoning code like keeping it
8 the same code, but giving it a variance. I think that
9 might have been kind of what I was there for, to see if
10 they would do that, but, you know, they just -- No one
11 was recommending to the mayor that that's what would be
12 done except me, you know, so...

13 Q. Okay. So what happened after the zoning
14 commission denied the application to rezone?

15 A. As far as?

16 Q. Well, what was the next thing you did with
17 regard to the building.

18 A. Okay. Well, let's see. Around that time, when
19 they denied that, it was going to be another month I
20 think or another few weeks before -- When the zoning
21 commission denied it, it was going to be some time
22 before it went to city council. There was -- there was
23 some time period in there.

24 So we were thinking. But in your minds,
25 you know, this was just another part of the process.

1 And we figured that it was not going to be approved at
2 the city council meeting when it was disapproved in the
3 zoning meeting.

4 So we waited. And, we -- you know, it
5 wasn't -- they -- The zoning commission recommended that
6 they not approve it, and they didn't. And then when
7 they told us again, that's when I think we started
8 thinking in terms of leasing during this time. It
9 wasn't immediately afterwards, but we started talking
10 about that.

11 Q. Okay. Now, do you know if Patrick Christensen
12 attended the city council meeting?

13 A. No, I don't know that.

14 Q. Okay. He may have and you just don't know?

15 A. Yes, sir, that's correct. I don't know.

16 Q. Okay. So who told you that the city council
17 denied the request?

18 A. I don't remember.

19 Q. Okay. But you were told at some point that the
20 city council had denied the request?

21 A. Yes, sir, or -- yes, sir. Some -- We found
22 that out somehow.

23 Q. Okay.

24 A. The reason I'm saying it like this, Ryan, is
25 because I remember thinking when we lost the zoning

1 commission, it was like, well, that's -- you know, if we
2 didn't win this, we are not going to win the other one.
3 So I think in my mind, if I just -- You know, that was
4 the final one for me, not the city council one.

5 Q. Okay. So you kind of already wrote it off?

6 A. Right. Exactly.

7 Q. Okay. At the end of the zoning commission
8 meeting?

9 A. Right, yes, sir.

10 Q. Okay. So at that point, you actually had the
11 option to completely cancel the contract, correct?

12 A. Well, I mean, technically, yes. But now by
13 this point, we are being stressed at our current
14 location.

15 Q. The Culebra Road?

16 A. The current, the Culebra Road. Right or wrong,
17 I'm now emotionally involved. The building -- if I was
18 going to build a church, I'm not sure I would build a
19 dome, but everything else is just -- I mean, it's
20 like -- you know, it's made for exactly what we want to
21 do in the exact place we are doing it.

22 The majority of our kids come from the
23 Marshall High School, Warren High School, you know. So
24 I think at that point, we were pretty much committed
25 that we are going to follow the process through.

1 But, you know what, your question was,
2 technically could we have gotten out of it, I think we
3 probably could have.

4 Q. Okay. But you choosed (sic) to continue
5 forward?

6 A. We did choose to do that.

7 Q. Okay. And you discussed with GoldStar a
8 leasing option?

9 A. Yes, sir.

10 Q. Okay. Did you come to an agreement with regard
11 to leasing before you moved in?

12 A. Yes, sir.

13 Q. Okay. Do you remember having a signed lease
14 before you moved in?

15 A. Again, when we were talking about that before,
16 I know they faxed us something, and we signed it.

17 Q. Okay.

18 A. And we sent them money, I mean.

19 Q. Okay.

20 A. But I think in speaking with Wanda, the thing
21 was, is when we started looking at it because we got --
22 the realtor had a key. And by this point, one of the
23 doors had been vandalized, and you could go with a
24 combination and open it or whatever. And we were
25 realizing --

1 And one of the other things I haven't
2 mentioned is I'm -- I'm -- this is -- I don't know of
3 this factually. Okay. But somebody -- because none of
4 the locks had changed, and there was stuff in the
5 buildings from the other church. Okay. And it was
6 evident as we would go look at stuff -- I mean, there
7 was still equipment in there. There was still stuff in
8 there. And sometimes we would go in there and it would
9 be gone, you know. So someone was --

10 Q. What stuff was it?

11 A. Just church equipment, you know, like sound
12 stuff and -- just stuff. I mean, I'm not real --

13 Q. Like chairs?

14 A. No, no, not chairs. Like electronic equipment.
15 You know, churches have to have a fairly extensive
16 audio/visual kind of setup. And there would be
17 equipment that we would notice because we would get
18 excited. Wow! We can use this when we get going. And
19 then we would go back and it would be gone.

20 And there was no sign of break-in at that
21 point. It was -- to me, it was obviously somebody, you
22 know, that didn't go to church anymore, I want to get my
23 stuff back and that kind of thing, but --

24 Q. Did you ever find out who was taking it?

25 A. No. No. And it wasn't -- I don't want to make

1 it seem like it was a repetitive thing. It only
2 happened once or twice. And once I kind of -- I went
3 back over there -- and I was telling Dan this.

4 I went over there one time just kind of
5 thinking -- I was in the area. And I said, well, let me
6 go check on the building and make sure everything is
7 okay. And one of the windows was out and the door to
8 the dome was open.

9 And I went into one of the buildings, and
10 I looked around and there was some equipment there. And
11 I said, you know what, I need to get this equipment out
12 and put it in my car. Somebody is going to come in here
13 and steal it.

14 And I said, no, because with my luck, I'm
15 going to be walking out of a window (sic) or something
16 with this equipment, and they are going to think I'm
17 stealing it. And sure enough, there was a police
18 officer that was -- So I told him what was going on.
19 And after that, the building was -- was secured.

20 But during that time, like I think
21 vagrants were living in there for a short period because
22 there was no -- they didn't break in. There was a door
23 that was ajar, but we went into one of the rooms and
24 there was, you know, vagrants in there so... There was
25 just, you know --

1 Q. About what time period was this?

2 A. Around the summer of 2008.

3 Q. Summer of 2008?

4 A. Somewhere around there, yes, sir.

5 Q. All right. Like June, July of '08?

6 A. That would be safe.

7 Q. Okay.

8 A. And at that point, that's when we started being
9 more serious about, look, we need to get in there
10 because, you know, they have already ripped out all of
11 the copper wiring.

12 We are seeing -- You know, there is a
13 Shipley Donuts place across the street. We are seeing
14 Shipley Donut boxes and empty coffee cups. You know, we
15 need to be in here and have a presence here before, you
16 know, more stuff is gone.

17 Q. Okay. Now, at this time, let's say, July of
18 '07 --

19 A. '08.

20 Q. -- '08, I'm sorry, the electricity hasn't been
21 repaired yet; is that correct?

22 A. That's correct.

23 Q. Okay. And was plumbing operational?

24 A. Yes.

25 Q. Okay.

1 A. The water was -- was still on.

2 Q. Okay. And was sewage okay?

3 A. Yes, sir.

4 Q. Okay. Was there any other problems other than
5 electrical?

6 A. Not -- You know, there was damage where someone
7 had tried to kick in a door. There was a window that
8 was pried off, but nothing functional, just facial, I
9 guess.

10 Q. Okay. Cosmetic?

11 A. Cosmetic.

12 Q. Okay. Okay. So when did you decide to move
13 into the building?

14 A. We talked with GoldStar and basically we
15 started these talks right around August. And once --
16 once we agreed on that this is going to be a process,
17 this is not going to be over in months or two, you know,
18 this is going to be a long while, during that time --

19 Remember, we were month to month at our
20 other building. And the church was growing, you know, a
21 little bit more. But mostly our day care facility was
22 really growing.

23 So we basically made a decision... And
24 also, our landlord at the other building was pressuring
25 us, rightly so, by the way. You don't have a lease with

1 me. You need to sign something or you're out.

2 And that relationship was being strained
3 because we didn't want to sign a lease because we were,
4 you know, waiting for this other thing to open up.

5 So all of that, you know, compiled made
6 the decision very, very easy for us. We need move over
7 here and lease this building while the -- while the
8 legal process is -- is continuing.

9 Q. Okay. And by legal process, you mean the issue
10 with regard to the zoning?

11 A. Zoning, yes, sir.

12 Q. Okay. So when did you actually move in?

13 A. We moved in sometime in October?

14 Q. Of '08?

15 A. Of '08, yes, sir.

16 Q. Okay.

17 A. Sometime around there.

18 Q. Okay. Now, when did you begin making repairs
19 to the buildings?

20 A. We applied for our certificate of occupancy in
21 September or October. I don't remember the dates, but
22 somewhere around there. And, you know, that's when the
23 fun began. But we got -- I'm not expert at this. I
24 just know that I have applied for six or seven C of O's
25 before in the leased buildings, but never with Leon

1 Valley, but the process was -- was very similar.

2 You know, they give you a temporary one
3 based upon, okay, you can be in here and be working or
4 whatever. And that was sometime in September or October
5 because then the electricians started coming in and
6 getting everything ready and things of that nature.

7 Q. Okay. So you started making repairs in
8 September of '08; is that correct?

9 A. September or October.

10 Q. Okay.

11 A. Depending upon when the -- we have, you know,
12 the temporary C of O's whatever those dates are is when
13 it would be.

14 Q. Okay. Did you begin making any repairs prior
15 to getting a temporary certificate of occupancy?

16 A. I had the window replaced. There was a window
17 that was knocked out that I told you -- Oh, no. I
18 didn't do that. GoldStar did that. So I guess, no, I
19 didn't.

20 Q. Okay. GoldStar did make some repairs to the --

21 A. Yes.

22 Q. -- building? Prior to you moving in, right?

23 A. Well, as far as I know, it was just the window.

24 Q. Okay.

25 MR. HENRY: Mark this was the next

1 exhibit, please.

2 (Exhibit 10 marked)

3 Q. (BY MR. HENRY) You have been handed what has
4 been marked as Exhibit 10. Can you tell me if you
5 recognize that?

6 A. Yes, sir.

7 Q. Tell me what that is.

8 A. That is the certificate of occupancy
9 application.

10 Q. Okay. That you filled in. What's the date on
11 top of that?

12 A. September 9th; is that right? September --
13 9/9/08.

14 Q. September 9 of '08, yeah.

15 A. Yeah.

16 Q. September is the 9th, that's right. Okay. So
17 does that refresh your memory as to when you made the
18 application?

19 A. Right.

20 Q. Okay. And then did you begin making repairs
21 shortly after that?

22 A. Whenever we got -- Usually like I said, you do
23 this and then they give you a temporary thing. And then
24 I remember this when we had to go through the
25 electric -- electrical department of the, you know, C of

1 O people. They had to come out and make sure that the
2 electricians we had were -- you know, knew what they
3 were doing and all that. So I would assume, yes. That
4 was the reason that we applied for it so we could start
5 doing the repairs.

6 MR. HENRY: Can you mark this as the next
7 exhibit, please.

8 (Exhibit 11 marked)

9 Q. (BY MR. HENRY) I'm going to hand you what's
10 been marked as Exhibit 11. Can you tell me if you
11 recognize that?

12 A. Yes, I recognize that.

13 Q. Tell me what that is.

14 A. That is the inspection report from the -- I
15 don't know who this is from. I know it's from Leon
16 Valley, but I thought it was from the electrical guy. I
17 don't think his -- his thing tagged, but I thought it
18 was the guy who came and basically said, you know,
19 everything is fine. Have the fire marshal come out
20 here. He's the final thing.

21 Q. Okay. What date is that?

22 A. September 14th.

23 Q. Okay.

24 MR. HENRY: Mark one more.

25 (Exhibit 12 marked)

1 Q. (BY MR. HENRY) I believe that's Exhibit 12; is
2 that correct? Can you tell me if you recognize that?

3 A. This is one -- this Exhibit 12 is one of the
4 inspection reports and this one is by the electrical
5 guy. And I would like to note that the handwriting on
6 this inspector is the same on both of them.

7 Q. At the bottom of 12, it lists the inspector's
8 name. Can you tell me what that is?

9 A. Oh, boy. Bealor.

10 Q. Bealor. Okay. I'll represent to you that
11 Bruce Bealor is the City of Leon Valley's building
12 inspector.

13 A. Okay.

14 Q. Does that sound about right to you?

15 A. I trust you, Ryan.

16 Q. Okay. So Mr. Bealor came out and inspected
17 your panel to make sure that you could begin work; is
18 that correct?

19 A. Not just the panel. He inspected the whole
20 building. And on that one, he -- he signifies that the
21 panel was okay. And then on this one, he signifies that
22 everything else -- else was okay.

23 Q. Okay.

24 A. Pending the fire inspection.

25 Q. Okay. And that was going to be my next kind of

1 set of questions. What is your understanding of the
2 process for the need for two people to come out and do
3 inspections to give you a certificate of occupancy?

4 A. What is -- Repeat that question for me.

5 Q. What is your understanding of the need for two
6 separate people to come out and give you an inspection?

7 A. Okay. We've -- like I stated prior, we have
8 been in leased buildings several times. And it is not
9 unusual at all for several people to come out in the
10 City of San Antonio.

11 There is a plumbing guy, a sign guy, an
12 electricity guy. When we have kitchens, there is a
13 health department guy. I mean, that's not unusual at
14 all. They are just doing their specific, you know --
15 and the idea of a temporary C of O in the past is like
16 Mr. -- what was his name, Bealor?

17 Q. Uh-huh.

18 A. Bealor comes out and usually he will find two
19 or three things. Fix this and fix that. And then the
20 fire marshal or somebody else will come by, and we've
21 never passed a fire marshal inspection the first time.
22 You know, they always find a couple of little things to
23 do, and that's normal, and that's kind of how that
24 process started with -- with Mr. Valdez.

25 Q. And Mr. Valdez is the fire marshal?

1 A. Fire marshal; yes, sir.

2 Q. All right. Let's back up a little bit. Go to
3 Exhibit 10. Okay. Now, you understand that you have to
4 have a certificate of occupancy in order to occupy the
5 building; is that correct?

6 A. Yes.

7 Q. Okay. And you weren't trying to avoid getting
8 a certificate of occupancy in any respect, were you not?

9 A. Absolutely not.

10 Q. Okay.

11 A. We spent all kinds of money making sure we
12 could get one of these. So I want to emphatically say
13 that there is no way we did that.

14 Q. Okay. So you knew you needed a certificate of
15 occupancy to be in the building?

16 A. Right.

17 Q. And you had every intention of complying with
18 that requirement?

19 A. I would say we did everything to inquire -- to
20 comply with that.

21 Q. Okay. You had no intent to try and circumvent
22 that?

23 A. Absolutely not.

24 Q. Okay.

25 A. Like I said, we have been in a building before.

1 I mean, we know the process. We were very familiar with
2 it. And we knew -- we -- we picked up contributions and
3 offerings specifically to deal with the issues that we
4 knew that this building was going to need.

5 Q. Okay. So -- And you are talking about getting
6 contributions in September of '08. Are you still housed
7 in the Culebra building?

8 A. We were housed in there, and I don't know the
9 dates, until the week we got a temporary C of O, and we
10 were able to start working. We stayed in our building
11 waiting for the fire marshal to come out.

12 The fire marshal in every building that we
13 have been in comes out the day after like everybody else
14 is done. Weeks passed and this guy still hasn't shown
15 up. We are going down there. We are calling him every
16 day.

17 Finally we realize, you know, this is one
18 of these things. And it was put to me, well, what do we
19 do? I said, we are moving in there and they are going
20 to -- we are going to force them to -- because I knew we
21 were going to create some type of litigation. And as
22 soon as we move in there, they are going to go to court,
23 and we want to go to court because we want this guy to
24 come out and inspect us. And that's exactly what
25 happened.

1 And if I remember right, I might be wrong
2 on this, but remember Dan asking the fire marshal what
3 took him -- I think it was like five or six weeks for
4 him to finally come over there. And he said, I was told
5 not to go.

6 Again, you know -- but that put us in --
7 we just couldn't be where we were anymore because the
8 guy is asking us, you know, for rent. And it was very
9 apparent that -- that the fire marshal is not coming
10 out.

11 I have never been in a building where it
12 took six weeks or -- five or six weeks, whatever it was,
13 for a fire marshal to come out. And you are talking
14 about -- well, not with this one. But usually it's
15 replace exit signs, you know, blah, blah, blah, blah.
16 Nothing -- nothing major.

17 This one, it was a major, major situation
18 which we did. We went above and beyond to meet
19 everything he wanted us to do. And some of the things
20 that he wanted us to do were just -- I had never
21 experienced anything like that before.

22 But being the good Christian guy that I
23 am, the Bible is very specific about we are under
24 authority, I respect Mr. Valdez's position. I have
25 never tried to circumvent or buck his authority. He

1 told us -- because there were fire alarms, fire alarm --

2 Q. Sensors?

3 A. -- sensors. Not sensors. They were -- you
4 know, if there is a fire, they go off, sensors, I guess,
5 in our building, and there was eight of them. And when
6 the previous tenant painted, they got some paint on
7 them. And he said he did not like paint on them. There
8 was no way we could get the paint off, so we had to
9 spend about \$600 replacing those things which we did.

10 MR. WHITWORTH: Smoke detectors?

11 THE WITNESS: No. They were fire alarm
12 sensors. And the smoke detectors were something that we
13 were going to probably have to add anyway. So I'm
14 not -- you know, we were going to have to add that.

15 I mean, that whole thing was a fiasco.
16 And, you know, I'm -- I didn't want -- I'm not going to
17 get into that. That's what we paid Dan to get into.

18 But the day that you and I went down to
19 court, and Dan, we went down to court for this because
20 that's what we had to do, the judge stated, you know,
21 have they done everything to -- to operate as a church
22 in your estimation? And under oath, he said, yes, we
23 have except we had not gotten our fire system monitored
24 by a phone. On that day was the first day I had ever
25 heard about that.

1 On that Friday, we had never -- he said
2 that we had to do that, which we would have done, but we
3 never had heard things like that. That's what I'm
4 saying.

5 It was just -- You know, just tell us what
6 we have to do like anything else. This is our seventh
7 building, man. You know, this is not our first rodeo.
8 We know what to do. We know we are going to have to
9 spend money.

10 And we were -- You know, at that time, we
11 had money to spend. So we were wanting to do that. And
12 it took us several thousand dollars and weeks and weeks
13 and weeks, you know. But we did go in there prior to
14 the final one being issued, absolutely. And the reason
15 was because we knew it wasn't going to be issued.

16 And during that time, they called us and
17 said they were going to turn our lights off and, you
18 know, all this stuff that I thought was just silly. But
19 the other thing -- Well, never mind. I'm not going to
20 do that.

21 Q. (BY MR. HENRY) Go ahead.

22 A. No. I won't go there yet.

23 Q. All right.

24 A. I don't want to be -- I want to be cooperative.

25 Q. Okay. Well, why don't you look at Exhibit 10.

1 A. Got it.

2 Q. Okay. Now, this is your application for
3 temporary certificate of occupancy, correct?

4 A. Yes, sir.

5 Q. Okay.

6 THE WITNESS: No. I'll use it in about
7 ten minutes.

8 Q. (BY MR. HENRY) It notes name of applicant.
9 What does that say?

10 A. RTM, Inc. Alward d/b/a Restoration is above
11 that and the business name Alward Elementary School and
12 Day Care.

13 Q. Okay. What is that?

14 A. September, we had not decided -- or we had not
15 been incorporated yet. We knew we had to. And when
16 they came to me to do this -- This is going to take a
17 minute or two for me to explain.

18 Q. Go ahead.

19 A. When it came for the certificate of occupancy
20 because we had had a day care before, the -- the
21 regulations and the certificate of occupancy codes are
22 higher for a day care or elementary school than they are
23 for the church.

24 When we were going to open our day care at
25 our church on the Culebra facility, we brought them our

1 certificate of occupancy that said church and then they
2 denied us. They said your C of O has to say day care.

3 We got licensing to come -- we had the
4 city come back again and issue us another C of O that
5 said church and day care. We took it back to the city
6 and they said, we don't want to see church on here. It
7 has to say day care and that it's because the day care
8 codes are a lot higher than the church codes are.

9 So when we applied, I applied purposefully
10 as our day care, knowing that if we can pass as a day
11 care, we are going to pass for a church. Because when
12 we provide that license -- when we provide that C of O,
13 licensing wants to see day care. That was taken in a
14 whole different direction from the City of Leon Valley.

15 They assumed I was trying to be deceitful
16 and move in as a school and really operate as a church
17 when, you know, I -- there is nothing that I have talked
18 to -- We send people down to their offices sometimes
19 twice, three times a week. We never tried to make any
20 bones or anything about anything. We knew what we were
21 doing.

22 The reasons that these names are so
23 frazzled is because I wanted to name it one thing and
24 everybody else wanted to name it something else. So we
25 just kind of put this here. RTM stands for Redemption

1 Tabernacle Ministries, Incorporated, and that was just
2 because the line was small.

3 Q. Okay. You had not actually issued any d/b/a's
4 yet or registered any d/b/a's yet?

5 A. We registered TCAL by that time, but I doubt we
6 had registered anything else, no.

7 Q. Okay. Are you currently -- does The Elijah
8 Group currently have any registered d/b/a's?

9 A. I believe TCAL is underneath them and
10 Restoration Center is underneath them as d/b/a's.

11 Q. Okay. At the time you made this application,
12 those were not registered?

13 A. That would be a safe assumption. If I go back
14 and look at the dates which I'm not great at obviously
15 with this chronology, we may have done it. But even if
16 we did it, I don't think it would be valid because we
17 weren't incorporated yet.

18 Q. And that was my next point. The Elijah Group
19 wasn't incorporated at this point?

20 A. Right, yeah. So...

21 Q. Okay. So there really wasn't an entity --

22 A. Well, I mean, remember -- remember, that as
23 churches, we don't have to incorporate. As loose and as
24 strange as that sounds, we just don't have to. So we
25 were an entity by the legal definition because we had a

1 church board. We have bylaws. We have a constitution,
2 you know, of those things.

3 Were we incorporated, absolutely not. We
4 as an entity, I would say, yes, we were.

5 Q. Okay. That's your understanding, right?

6 MR. WHITWORTH: Do you need him to speak a
7 little slower.

8 THE REPORTER: A little bit.

9 THE WITNESS: I have -- I have six women
10 at my house. If you don't speak fast, you don't get a
11 word in. I'm sorry.

12 Q. (BY MR. HENRY) Overall on -- it says Section 2
13 which is parallel to Section 1, it says property owner.

14 A. Yes, sir.

15 Q. And you list GoldStar Trust?

16 A. Yes, sir.

17 Q. Okay. And GoldStar Trust is still currently
18 the property owner, correct?

19 A. Yes, sir.

20 Q. Okay. You list the business name which you
21 actually have never really assumed that name, have you?

22 A. We haven't decided on that name yet. I still
23 want to name it Alward Elementary School, but it's named
24 after a woman from England. And we don't know if we use
25 her name, if we are going to get into issues. So that's

1 still up in the air.

2 Q. Okay. Under the purpose of the certificate of
3 occupancy, you list educational training?

4 A. Yes, sir.

5 Q. Okay. It's your understanding that that's what
6 you are required to do to list it as a day care?

7 A. Yes, exactly.

8 Q. Okay. But you didn't list church anywhere on
9 this certificate of occupancy?

10 A. Right.

11 Q. Okay. And you testified earlier that the
12 building and fire code -- or the code regulations, I
13 think you were just general, --

14 A. Right.

15 Q. -- are more strict for a day care than they are
16 a church?

17 A. Right.

18 Q. Okay. So you are going to have to satisfy more
19 stringent codes to be a day care?

20 A. Exactly.

21 Q. Okay. And if you can satisfy the day care
22 requirements, then you are going to satisfy the church
23 requirements?

24 A. Exactly.

25 Q. Okay. So you applied for a day care?

1 A. Yes, sir.

2 Q. Okay. But it was your intent to be both a day
3 care and a church?

4 A. Yes, sir.

5 Q. Okay. So you got the temporary C of O which I
6 believe is number 11?

7 A. No. You haven't given it to us yet.

8 Q. No. The temporary C of O.

9 A. Yes. This is an inspection report. That's not
10 how the C of O does it. But what he did is he said,
11 okay, for temporary C of O.

12 Q. Okay. And that's Mr. Bealor, correct?

13 A. Yes, sir.

14 Q. Okay. And then he says it's contingent upon
15 fire inspection approval?

16 A. Yes, sir.

17 Q. Okay. So you -- The building inspector said
18 the building was safe to occupy?

19 A. (Witness nodding).

20 Q. And so you began to make repairs to the
21 building, correct?

22 A. Right.

23 MR. WHITWORTH: Let me make an object to
24 that last question. It doesn't say contingent upon
25 department approval. It says final upon department

1 approval.

2 MR. HENRY: Okay.

3 MR. WHITWORTH: I think that's two
4 different things.

5 Q. (BY MR. HENRY) Well, whatever it says, let's go
6 with that.

7 A. Right. Yes. Final with fire department
8 approval, yes.

9 Q. Okay. And your understanding was that means
10 it's temporary until the fire marshal approves it?

11 A. Yes, exactly.

12 Q. Okay. Okay. So you have permission to enter
13 the building and make repairs?

14 A. Yes, sir.

15 Q. Okay. And so did you begin making repairs?

16 A. Yes, sir.

17 Q. What -- which building are we talking about?

18 A. The -- the children's building, not the dome.

19 Q. Okay.

20 A. We are talking about that building.

21 Q. Okay. So this application for temporary
22 certificate of occupancy is only for the children's
23 building?

24 A. Yes.

25 Q. Okay. I imagine making repairs can be rather

1 expensive?

2 A. Right.

3 Q. So you want to do one building at the time?

4 A. That's the idea.

5 Q. Okay. So you are starting with the children's
6 building which is smaller?

7 A. Right.

8 Q. Okay. Now, what repairs were needed?

9 A. Basically all of the air conditioners and all
10 of the copper wiring into the building had been removed.
11 And then there were the various fire code violations
12 which were legitimate violations because the codes were
13 different now than they were when the building was
14 built.

15 There were a few other minor things. But,
16 you know, the fire marshal gave us a very detailed
17 report about what we needed to correct when he finally
18 did come out there. And basically what we do is we
19 just, you know, one by one start correcting them.

20 Q. Okay. Now, for a day care facility, you are
21 also required to have -- If you are going to be
22 servicing all ages of children, you have to have a
23 sprinkler system in place; is that correct?

24 A. Yes, sir.

25 Q. Okay. And the children's building at the

1 Bandera location, at that time did not have a sprinkler
2 system?

3 A. That's correct.

4 Q. Okay. Does it have a sprinkler system to date?

5 A. No, it does not.

6 Q. Okay.

7 A. The reason is, is we found out that that's a
8 Leon Valley -- it's a fire code that Leon Valley has
9 been the only one that we have run into that enforced --
10 enforced it that way. But what we can have is children
11 two-and-a-half years and up, and that's what we told the
12 city we would do.

13 Q. I'll get to that in a minute.

14 A. Okay. Go ahead.

15 Q. Because when you made this initial application
16 in September, that was not an issue at that moment,
17 correct?

18 A. What was not an issue?

19 Q. You were told you needed a sprinkler system for
20 all ages; is that right?

21 A. Yes, sir.

22 Q. Okay. And you didn't foresee that that would
23 be a requirement at that time?

24 A. No, but we got bids and we were going to
25 install a sprinkler system, absolutely.

1 Q. Okay. Now, when did you actually move in?

2 A. It was sometime in October when we realized
3 after a month or so the fire marshal is not coming. We
4 have called him and, you know, he is not returning
5 calls.

6 And so we moved in. And as soon as we
7 moved in, you know, Leon Valley said, well, we are going
8 to turn your electricity off. And we weren't in there a
9 month. But that was the expectation. I mean, I'm
10 not -- We knew what was going to happen when we moved in
11 there. We wanted that to happen.

12 And it was a month, maybe six weeks, some
13 short period of time -- and by the way, the fire marshal
14 still hadn't come out when we went to court. And when
15 was that? I don't remember. Sometime in --

16 Q. That was in December.

17 A. December. Okay. So we must have moved in in
18 late October, and then we went to court in December.

19 Q. Okay. When did you begin conducting services?

20 A. When we moved in?

21 Q. In October.

22 A. In October, late October.

23 Q. Okay. And by services -- What's your
24 understanding of my question when I say services?

25 A. Church services, people showing up specifically

1 to worship the Lord Jesus Christ and hear me preach a
2 good sermon.

3 Q. Okay. And so how often did you hold services?

4 A. Every Sunday, most Wednesdays.

5 Q. Okay. Any other services?

6 A. No, for then because our counseling had -- had
7 a little window because our phone numbers had to change
8 and there were some different things we had to go
9 through that. So really that's the only thing we were
10 doing. We were doing that and preparing the building to
11 be inspected by child care licensing.

12 Q. Okay. So your licensing was still tied to the
13 Culebra Road building; is that correct?

14 A. Yes, sir.

15 Q. Okay. So did you perform any day care services
16 on the Bandera Road location?

17 A. No.

18 Q. Okay. Have you ever performed any day care
19 services?

20 A. No, we have not.

21 Q. Okay.

22 A. We -- we -- we just got our license from the
23 city maybe three weeks ago.

24 Q. Okay. Now, you were told you couldn't be a day
25 care by the fire marshal, correct?

1 A. No. We were told we couldn't be a day care for
2 all ages of children unless we had sprinkler systems.
3 He then pointed out to us that we could without
4 sprinkler systems have two-and-a-half years and up. And
5 we opted for now, that's what we would do so we could
6 get that processes started. Because remember, we have
7 gone six months out without the income of our school.

8 Q. Now, we are getting off of the chronology, but
9 that's okay. So let's jump ahead to that point.

10 A. Sure.

11 Q. All right. Now, we had a -- And we will come
12 back to the issue of the initial move in and the initial
13 injunction hearing.

14 A. Okay.

15 Q. Okay. But after all of that -- I'm trying to
16 find my -- where my exhibits are -- it was pointed out
17 to you that you could have day care services at that
18 location as long as you were not servicing?

19 A. Infants basically.

20 Q. Infants, right. And you didn't need a
21 sprinkler system in order to service children over the
22 age of two-and-a-half years; is that correct?

23 A. Yes, sir. That was my understanding.

24 Q. So you could have a day care, not need a
25 sprinkler, as long as there was a restriction you are

1 not going to have anyone under two-and-a-half years of
2 age?

3 A. Exactly.

4 Q. Okay. And so you made a new application for a
5 certificate of occupancy?

6 A. Ryan, we have made so many applications for --
7 I mean, I'm serious. If we made a half a dozen -- I
8 lost count. I mean, it seemed like every week they
9 wanted us to make a new one. And then they wanted us to
10 write a letter about why the old one was this. And so I
11 would not be comfortable in saying if we did it then,
12 but we did it during this whole process. So if we did,
13 yes. But that was one of many.

14 Q. Okay.

15 A. And by the way, every time we went down there,
16 I think we got charged \$60. I'll just throw that in.

17 Q. If I remember correctly, you filed a new one.
18 But then you asked -- you sought to amend the old one to
19 make a restriction?

20 A. No. We did not seek that. They told us to do
21 that.

22 Q. Okay.

23 A. Leon Valley told us to do that.

24 Q. Okay. And was it Fire Marshal Valdez that told
25 you to do that?

1 A. No. I believe that mandate came from another
2 office.

3 Q. Do you remember who?

4 A. Community Development, I think. But again, it
5 could have been the fire marshal, but I don't think he
6 would have done that. He's -- Fire Marshal Valdez is --
7 is doing what he is told to do. He's under the
8 authority of I think, you know, other individuals.

9 So we worked with Community Development.
10 And I think the thing with Community Development is when
11 the application -- I mean, the -- the request for a new
12 application or amended or whatever they wanted, I think.

13 Q. Whatever we call it, you actually made some
14 form of application?

15 A. Yes.

16 Q. To say give us of a C of O to be a day care,
17 and we promise we are not going to have children under
18 the age of two-and-a-half years of age?

19 A. In the day care part.

20 Q. In the day care part?

21 A. Right. We could have children of two --
22 two-and-a-half years of age in our church.

23 Q. Okay. Well, we will get to that part in a
24 minute.

25 A. Okay.

1 MR. HENRY: Can you mark that as an
2 exhibit for me, please.

3 (Exhibit 13 marked)

4 Q. (BY MR. HENRY) And I'm sorry. What exhibit is
5 that? It should be 13.

6 A. It is.

7 Q. Okay. Do you recognize that?

8 A. Yes.

9 Q. Can you tell me what that is?

10 A. That is a letter that we were told to produce
11 for Leon Valley. They actually wanted us to reapply,
12 but we didn't -- we weren't going to reapply because we
13 were going to resubmit.

14 We had applied by this time however many
15 times we have and spent, God only knows, how much money
16 on these silly -- Every time you go down there, you have
17 to pay something. Anyway, the point is, is that we did
18 this letter on their behest.

19 Q. Okay. They said if you want to restrict
20 yourself to day care services not -- and you are not
21 going to be caring for infants two-and-a-half years of
22 age, we need something in writing --

23 A. Yes.

24 Q. -- from you that says that?

25 A. Right.

1 Q. Okay. And so you wrote this letter or this
2 letter was written on behalf of the Restoration Center?

3 A. Yes.

4 Q. Okay. Who is Trascilla --

5 A. Trascilla Saucedo is our assistant director for
6 our day care and our education program.

7 Q. Okay. When did you stop providing day care
8 services on Culebra Road?

9 A. February 1st, 2009. For a while, we were
10 paying -- we were continuing to pay rent over there for
11 our day care.

12 Q. Okay. So when you moved into the Bandera Road
13 building in October of --

14 A. '08.

15 Q. -- '08, you were still paying rent on the
16 Culebra Road property?

17 A. Yes, we were.

18 Q. Okay. Were any church services being conducted
19 on Culebra Road at that time?

20 A. No.

21 Q. Okay. Did you utilize any extra room for day
22 care or did you leave the day care size the same?

23 A. No. We actually let families go because we
24 knew the bulk of our money was going to be tied up in
25 renovations. And we also knew that we cannot afford to

1 continue this day care.

2 The idea was for us to continue that day
3 care, get this one, the one on Bandera Road going, and
4 then we just opened this one while we closed this one.
5 But the fire marshal and all of this other stuff made
6 sure we weren't going to be able to do that.

7 I mean, we -- we had to keep this one in
8 operation with -- with this one hanging in suspense, you
9 know, because you can't -- even though -- Licensing --
10 licensing will not come out to inspect us until we have
11 a certificate of occupation that says day care on it.

12 So, I mean, while we are fighting this
13 thing getting this thing going, we are still having to
14 pay rent over here. So what we did was we let some of
15 the families go and kept it to just where it was break
16 even, and then I sold it to somebody, and they kind of
17 took it over.

18 Q. Okay. So when did you sell it?

19 A. February 1st, 2009.

20 Q. Okay. So you sold the day care on
21 February 1st, 2009?

22 A. Right.

23 Q. Okay. And I take it, you sold the license and
24 everything transferred at the same time?

25 A. No. That's not -- that's not how it goes.

1 Q. Okay.

2 A. It operates under our license. We are still
3 responsible until they get their own license. They have
4 to have inspectors come and inspect them all over again.
5 Once they have theirs, then the transfer can be
6 complete.

7 Q. Okay. Has that occurred yet?

8 A. I do not believe so. I think we are on the
9 last -- it may have occurred last week, but I think
10 there is still some paperwork that needs to be completed
11 on the purchaser's end.

12 Q. Okay. Who did you sell it to?

13 A. My father-in-law.

14 Q. Your father-in-law. I can't remember. Is he
15 on the board of Elijah Group?

16 A. No.

17 Q. So -- And how much did you sell it for?

18 A. \$2,250.

19 Q. Okay.

20 A. What a great guy I am.

21 Q. What name was it sold under?

22 A. What was our name or what was the new name?

23 Q. Give me both.

24 A. Glory Barn Christian Learning Center is what we
25 operated it as. Temple of Praise Early Childhood

1 Developmental School, something like that, is what the
2 new name was.

3 Q. Okay. So your father-in-law purchased it from
4 you?

5 A. (Witness nodding).

6 Q. How did you come up with that dollar amount?

7 A. He -- he had been asking me about this for a
8 long time. And basically I took the -- the price of the
9 two most expensive items of furniture that we have in
10 there to replace and added them together.

11 Q. So you sold him the assets basically?

12 A. Well, I got, you know --

13 MR. WHITWORTH: A couch and a chair?

14 THE WITNESS: No. It was cribs.

15 Q. (BY MR. HENRY) Okay.

16 A. Day care certified cribs are very expensive.
17 One is 1,250. And then what they call a portable
18 sink... You have to have water, but without plumbing.
19 That's about a thousand so...

20 Q. (BY MR. HENRY) Okay. And has he -- He has been
21 operating the day care?

22 A. Right.

23 Q. Under your license?

24 A. Yes, sir.

25 Q. Until he can get his own?

1 A. Right.

2 Q. Okay. Now, you sent in the letter to the city.
3 So what made you decide to do this as opposed to getting
4 a sprinkler system?

5 A. The cost.

6 Q. The cost?

7 A. We were already -- we were expecting to open
8 our child care facility sometime around the beginning of
9 the year, and we had already exhausted the finances that
10 we had to open the new one in paying for the old one.

11 And the congregation, when we moved in
12 there, did really start growing. I mean, it was almost
13 an immediate jump. And although, you know,
14 contributions and things have increased, Praise the
15 Lord, you know, you are talking about replacing a
16 business that's 350,000 a year. That's not profit, but
17 that's a large chunk of money that we are out every
18 month because we cannot open this. And not to mention,
19 we have to pay for the other one.

20 So we were going to do the sprinkler
21 system. We were going to do that, but it became very
22 apparent we need to do this as quickly as possible. And
23 either we are going to have the money to open this as
24 is, and then in a year or two, we will install the
25 sprinkler system, and we will -- you know, we will go

1 through that and we talked to -- talked to the fire
2 marshal, Mr. Valdez, about that very thing.

3 We said, you know what, we have kind of
4 run out of time here. We need to open this thing up.
5 We are just going to do it this way that you have shown
6 us.

7 Q. Okay. So he basically said, look, if you have
8 a sprinkler system in there, you can have the
9 certificate of occupancy for all age groups, including
10 infants. But if you want to get going now, you just
11 have to give us something in writing that says you are
12 not going to service infants.

13 A. Right, up to two-and-a-half years old.

14 Q. Up to two-and-a-half years of age. And then
15 you don't need a sprinkler system and you can have your
16 certificate of occupancy?

17 A. Yes, sir.

18 Q. Okay. And so you gave them this letter and
19 then he gave you a certificate of occupancy?

20 A. Yes, sir.

21 Q. Okay.

22 MR. HENRY: Can you mark this as an
23 exhibit for me. I believe that's Exhibit 14.

24 MR. WHITWORTH: Yes.

25 (Exhibit 14 marked)

1 Q. (BY MR. HENRY) Do you recognize that?

2 A. Ours has a date on it.

3 Q. Yours has a date on it. Okay.

4 A. I think. I thought it did.

5 Q. Well, yours should probably have a signature on
6 it too?

7 A. Yeah.

8 Q. Okay. Absent the signature and date, what does
9 that appear to be to you?

10 A. The certificate of occupancy.

11 Q. Okay. And absent the signature and date, does
12 it look --

13 A. Yes.

14 Q. -- exactly like your other one?

15 A. I don't remember exactly. But, you know,
16 looking over the information, this is the agreement that
17 we had with them.

18 Q. Okay. All right. So you have been granted a
19 certificate of occupancy and that is for the children's
20 building as well?

21 A. Yes, sir.

22 Q. Or only?

23 A. No, only.

24 Q. Only. Okay. So you can actually have the day
25 care in the children's building right now?

1 A. Yes.

2 Q. Okay. And do you remember when -- what date
3 yours actually has on it?

4 A. No, but it was maybe a month ago.

5 Q. Maybe a month ago?

6 A. Maybe two.

7 Q. Okay.

8 A. It wasn't -- it was sometime, you know --

9 Q. Was it in March or April of '09?

10 A. Something like that.

11 Q. Okay. So you received a certificate of
12 occupancy. And did you begin making steps to make the
13 application with the city and the state?

14 A. We had already made all those steps.

15 Q. Okay.

16 A. And basically they were saying as soon as you
17 get your C of O, we will approve you.

18 Q. Okay. So right now, you are approved to start
19 operating your day care?

20 A. Yes, sir.

21 Q. Okay. And that's going to be for the
22 children's building?

23 A. Yes, sir.

24 Q. Okay. Now, you have also applied for the C of
25 O for the dome building; is that correct?

1 A. Yes, sir.

2 Q. And you have been granted a temporary C of O
3 for the dome building, correct?

4 A. Uh-huh.

5 Q. I'm sorry. I need a verbal answer.

6 A. Yes, sir. I'm sorry.

7 Q. Do you remember when that came in?

8 A. No. Probably in the last 60 days, I would -- I
9 would imagine.

10 Q. Okay. So?

11 A. Sixty to 90 days.

12 Q. Okay.

13 A. I would feel safe with that.

14 Q. Was it after the certificate of occupancy for
15 the day care?

16 A. No. We still hadn't got the day care when we
17 started this.

18 Q. Okay. So you got a temporary certificate of
19 occupancy for the dome building?

20 A. Yes.

21 Q. In order to begin repairs?

22 A. Right.

23 Q. Okay. And did you begin repairs?

24 A. Yes.

25 Q. And what repairs are needed for the dome

1 building?

2 A. The electrical wiring was far more extensive.
3 Like I said before, they actually went up to the CPS
4 pole 30 feet in the air, cut the copper wiring, stripped
5 it out of the -- of the box that leads to the building.
6 The dome is obviously dome shaped.

7 There's air conditioners on the left and
8 the right-hand side, the north and the south side. They
9 took people and pulled out the wires from the ground on
10 the north side that were connected to the south side and
11 did the same thing from the south side to this side.
12 They broke in the building and got up on the panels.
13 And every electrical box, they pulled out the copper
14 wiring.

15 Q. So you had to replace all the wiring?

16 A. Oh, yeah.

17 Q. All right. And how much has that cost you so
18 far?

19 A. Over \$50,000.

20 Q. Okay. Is the repair complete?

21 A. Yes, according to the fire marshal. If I'm not
22 mistaken, everything is done that he wanted except a box
23 that they need for the fire department. In case there
24 is a fire going on, there needs to be a secured box with
25 a key in there that we have to pay them \$200 for. And

1 some switches that to the touch were hot. So we have
2 actually replaced all of those.

3 Q. Okay. And are those the only things holding up
4 a final certificate of occupancy?

5 A. As far as I know.

6 Q. Okay.

7 A. But we send him tacos all the time, but I don't
8 know if that works. As far as I know, that is.

9 Q. Okay. Now, what did you apply -- what was the
10 purpose of applying for a certificate of occupancy for
11 the dome building?

12 A. Basically the children's building has a
13 sanctuary space in the middle and is surrounded by
14 classrooms.

15 As the church began to grow, people in the
16 congregation saw the need and began to volunteer their
17 time to come and be a secretary, you know, help out
18 in -- in various administrative duties.

19 The children's building only has one
20 workable office and five people were working out of that
21 office. Our day care director moved into another --
22 into another small classroom, but, you know, it wasn't
23 working.

24 We are primarily right now using those --
25 we are going to use those -- there's offices in the

1 dome. All the offices are in the dome building. So we
2 would use those right now for administration for our
3 various ministries.

4 Q. Okay. Are you still conducting church services
5 in the children's building?

6 A. Yes, we are.

7 Q. Okay. The certificate of occupancy, the one
8 that has been granted for the children's building, does
9 not authorize a church use; is that correct?

10 A. No. I don't believe it does.

11 Q. Okay. You have never applied for a certificate
12 of occupancy for church use for either the children's
13 building or the dome building; is that correct?

14 A. No. I don't think we have specifically done
15 that.

16 Q. Okay. Well, you already know you are not zoned
17 for it?

18 A. Right.

19 Q. So what's the purpose in applying for it?

20 A. Right. And the other thing was, I was -- the
21 reason I was -- I was thinking even at the beginning, I
22 wrongly assumed that the church would fall under the
23 auspices of the day care zoning -- I mean, certificate
24 of occupancy.

25 You know, I thought -- I knew we were

1 going to have a legal issue, but I thought, okay, if we
2 are going to be okay for a day care, we are going to be
3 fine for a church. So that was the reason, but you are
4 right.

5 MR. WHITWORTH: And let me object as
6 calling for facts not in evidence specifically. I don't
7 believe there is an application process for applying for
8 church use in that zone, that district.

9 MR. HENRY: Well, you apply for a
10 certificate of occupancy and you put church use.

11 MR. WHITWORTH: Not for church use there
12 isn't.

13 MR. HENRY: Well, that's going to be
14 denied.

15 MR. WHITWORTH: Within the zoning
16 commission.

17 THE WITNESS: Right.

18 MR. HENRY: Yeah.

19 MR. WHITWORTH: So if there is no
20 process...

21 THE WITNESS: No, no. I think we are on
22 the same -- basically the same page. We did not specify
23 that we were applying for a church use. No, we did not
24 do that. And exactly, like you said, why would we? We
25 know that we are in a legal battle to de -- determine

1 that.

2 What I did take however was what the judge
3 said. You know, are you guys -- according to your
4 codes, are they able to have church in this building?
5 And he said, yes, if they do these different things
6 which we have done.

7 Q. (BY MR. HENRY) Let's back up one minute and
8 let's talk about that. You were conducting church
9 services in the building. You had been denied the
10 certificate of occupancy by the fire marshal in December
11 of '08, correct?

12 A. Yes, sir.

13 Q. And he said -- he gave you a long list of
14 things of why the certificate of occupancy application
15 that you applied for in September was denied -- or I'm
16 sorry -- yeah, in September. And one of the big ones
17 was no sprinkler system?

18 A. No. It had nothing to do with it.

19 Q. For the day care?

20 A. No. He -- remember, he -- he came out and the
21 sprinkler system wasn't part of the certificate of
22 occupancy. When he came out, he was just doing -- he
23 wasn't even doing a certificate of occupancy inspection.

24 He was told, do not even -- he told us,
25 I'm not doing a C of O. I'm just doing a general safety

1 inspection. Okay. He wrote a list of things for us to
2 accomplish. We did every one of those things.

3 We brought him back. And he said, no, you
4 don't have a fire -- your fire alarm is not hooked up to
5 a phone. That is on the second thing that he gave us,
6 but it was never on the first one. So we were stuck.

7 If you remember, we were on a Friday, and
8 we were holding services in there. And the judge --
9 remember, he said, forget all this. Are they -- Pastor
10 Crain, he asked me, are you guys -- do you guys qualify
11 or have you guys done everything on the C of O report --
12 I mean, that the fire marshal had given us. And I said,
13 yes, because the phone thing was not written on there.

14 Okay. Now, afterwards, he said, but as
15 part of the fire code, you have to have a phone line
16 hooked up to the fire -- which makes perfect sense. He
17 just -- he just forget to tell us that or something.

18 So we did not have church in that -- we
19 did not have church that Sunday in the building because
20 the judge had told us that until that is remedied --
21 which we couldn't get the phone company to come out
22 right there. You know, we were going to have to wait
23 until Monday or Tuesday. Until that was remedied, we
24 couldn't have church in the -- in the building.

25 So that Sunday, we -- It was a Friday

1 night. We couldn't call everybody from the church and
2 tell them, you know, no church on Sunday. That was the
3 last thing we wanted to do anyway. So we set up
4 outside. And we had, you know, a good crowd. Thank
5 God, it was a beautiful day. We had a good service.

6 And Fire Marshal Valdez comes with a side
7 arm. He has a weapon. A gun is what I'm trying to say.
8 And is he walking in the congregation with a video
9 camera. I mean, you know, walking up to our
10 parishioners, videotaping them, videotaping me with a --
11 with a side arm. I mean, it was surreal. It was just
12 out there.

13 And I tried to come up to him a few times
14 and say -- I don't think I would -- I wouldn't call him
15 Luis. But I said, Mr. Valdez, what in the world are we
16 doing here? And he just, you know, looked at me with a
17 look that told me, you know, I don't want a fellowship
18 right now.

19 And, you know, that was just -- just to
20 me, it was just -- just behavior that I had never
21 experienced before. Never experienced anything like
22 that before. And I thought that was pretty harsh to
23 have a guy at a church service with a firearm. That's
24 kind of intimidating I thought. Why don't you talk to
25 him about that, Ryan.

1 Q. Do you know what Fire Marshal Valdez's
2 qualifications are in order to entitle him to carry a
3 firearm?

4 A. I'm absolutely positive he meets every single
5 one of them.

6 Q. Okay.

7 A. I would not at all question his
8 professionalism, his qualifications. The dealings that
9 we have had with him when we had to deal with him, you
10 know, there's issues that are going on between the city
11 and us, but he knows what he is doing. I have 100
12 percent confidence he knows what he is doing. As far as
13 what he did that day, I don't know where that came from.

14 Q. Okay. Do you know if he carries his firearm
15 when he goes to most of his calls?

16 A. He never had before.

17 Q. He never had before?

18 A. No.

19 Q. Okay.

20 A. And I have been in seven buildings. I have
21 never had a fire marshal show up to a building to do an
22 inspection with a 9-millimeter.

23 Q. Did he pull the gun out at all?

24 A. No, he did not.

25 Q. Okay.

1 A. But my daughter took a picture of him for some
2 reason.

3 Q. I think that's been produced in discovery.

4 A. Cell phone cameras.

5 Q. Now, you were ordered by the court not to hold
6 services?

7 A. In the building?

8 Q. And that's your understanding of what Judge
9 Garcia ordered you to do?

10 A. Yes.

11 Q. Okay. So when we go in there -- Judge Garcia
12 knows what he ordered. And you are going to go up and
13 tell him, that's what I understood you ordered me to do,
14 Judge?

15 A. Yes. And the thing is -- is -- is I wouldn't
16 even call what we did a service. I mean, it's all
17 videotaped. You are going to see it. We had some
18 songs. I gave a five minute -- five to ten minute talk.
19 And basically I told him, this is why we are outside.

20 We did this. You know, we need the phone
21 lines, blah, blah, blah, blah, blah. There is nothing
22 in there that violated a fire code.

23 The whole thing is, are you putting your
24 congregation in danger in case there's a fire? If there
25 was a fire in the building, we would have been safe. If

1 there was a fire in the dome, we would have been okay.

2 So we weren't violating any kind of fire, you know...

3 And we didn't -- you know, I didn't really
4 even go in there. I mean, we didn't really have a
5 full-blown service anyway. We just made the
6 announcement basically that because of the legal issues
7 that we're -- that we're involved in and, you know, so
8 forth and so on, this is why we are here.

9 Q. The court ordered you not to conduct services
10 until the fire alarm you had had been inspected --

11 A. No.

12 Q. -- and it was monitored?

13 A. Monitored. That was the -- The alarm had
14 already been inspected, but it just wasn't being
15 monitored.

16 Q. Okay. And so by that Sunday, it was not
17 monitored?

18 A. No.

19 Q. Okay. Now, you hooked power extension cords up
20 to that building in order to --

21 A. Yes.

22 Q. -- operate your --

23 A. We were outside, yes, sir.

24 Q. Okay. But you ran power cable into the
25 building --

1 A. Yes, sir.

2 MR. WHITWORTH: Let him finish his
3 question.

4 THE WITNESS: I'm sorry.

5 Q. (BY MR. HENRY) It's okay. So you were pulling
6 power from the building itself?

7 A. Yes, sir.

8 Q. And this is the children's building, correct?

9 A. Yes, sir.

10 Q. Okay. And are you right, it is on videotape.
11 And you -- I'll disagree with you a little bit as to the
12 time period, but the videotape will speak for itself as
13 to how long you were out there and what was said.

14 A. I would say maybe --

15 MR. WHITWORTH: That's not a question.

16 THE WITNESS: Oh, okay.

17 Q. (BY MR. HENRY) How long do you think you were
18 out there?

19 A. Thirty or 40 minutes, something like that.

20 Q. Okay. How long do your services normally last?

21 A. And hour and a half --

22 Q. And hour and a half.

23 A. -- to two if I get long winded.

24 Q. Okay. Did you pass around the collection plate
25 afterwards?

1 A. Absolutely.

2 Q. Okay. When you were outside?

3 A. Absolutely.

4 Q. Okay. And the next week -- Well, you said you
5 have services -- you have services on Sunday and
6 Wednesday, right?

7 A. Yes, sir.

8 Q. Okay. And was the fire alarm system monitored
9 by Wednesday?

10 A. Yes, it was.

11 Q. Okay. So did you hold services on Wednesday?

12 A. I believe we did.

13 Q. And was the fire alarm service monitored the
14 following Sunday?

15 A. Yes. All that needed to be done was AT&T had
16 to come and hook up the phones. We had already called
17 them to do that, so they were already on their way, and
18 they had given us a date of Monday.

19 And if you remember, the court was at
20 five o'clock on Friday. And the Judge said, well, if
21 you can get these things fixed, you can go ahead and
22 have Sunday service there. But, you know, we
23 couldn't -- There was no way we were going to be able to
24 get the phones hooked up for the building. So we just
25 had services outside.

1 Q. Okay. So you had services -- The hearing was
2 on a Friday. You did not have service -- or you had
3 services in the parking lot on Sunday?

4 A. Uh-huh.

5 Q. You got everything hooked up -- Your testimony
6 is everything was hooked up and ready to go Wednesday?

7 A. Yes, because AT&T was coming out already to
8 hook up our phone lines that Monday. It was just
9 coincidental that we needed him to hook up for the fire
10 alarm because we didn't -- that wasn't on the first
11 paper that he gave us. But once they came out, it was
12 done by Monday or Tuesday.

13 Q. So you had service on Wednesday?

14 A. Yes, sir.

15 Q. Now, at the hearing on Friday, if you remember,
16 the Judge said, Mr. Valdez, once you leave the hearing
17 now, everyone go out to --

18 A. Right.

19 Q. -- the Bandera Road property?

20 A. Uh-huh.

21 Q. And at that time, the alarm had not been
22 inspected. You had an inspector out there when we got
23 there?

24 A. Right.

25 Q. Do you remember that?

1 A. Yes, sir.

2 Q. Okay. So one of Marshal Valdez's issues was
3 also that it had to be inspected by a licensed alarm
4 technician?

5 A. No. It wasn't -- The guy was a licensed alarm
6 technician. What it was, was the monitoring issue was
7 the issue.

8 Q. Okay.

9 A. And I think that -- I don't remember this, but
10 I think that while he was there, he went around the
11 building and picked up three or four more things that he
12 had missed the first time around which again that is not
13 unusual. I have dealt with fire marshals before.

14 We have dealt with one that comes in and
15 he's -- he looks -- and I mean, he is there three
16 minutes and he leaves. And then you have other guys
17 that are, you know, doing the same kind of thing. They
18 are very, very meticulous. Either way, you have to do
19 what they say. We were not disputing that at all.

20 What we were disputing is get out here and
21 inspect us so we can, you know, get our operation going.

22 Anyway, the issue that day was the
23 monitoring. There was going to be no monitoring. There
24 was no way we were going to get it monitored that
25 weekend.

1 The fire alarm company could not then pass
2 the fire alarm system because it was not monitored. So,
3 you know, that's -- I knew that as soon as the
4 monitoring was an issue.

5 Q. Did you ever pay your fire alarm inspector?

6 A. Pay the fire alarm inspector, like bribe?

7 Q. No, no, no, no. The guy that came out to work
8 on your fire alarm.

9 A. Oh, yeah.

10 Q. Okay.

11 A. Yeah, \$2,500 or something.

12 Q. Okay. So if he said he didn't get paid from
13 you, he would be inaccurate?

14 A. I don't think we have paid them for the latest
15 work that we have done. And it took us -- because they
16 have done work on the dome building, and I think we --
17 we owe them a couple hundred dollars probably on that.
18 And it took us probably a month to finish paying on the
19 job that you are talking about.

20 Q. Okay. So his work on the fire alarm for the
21 children's building, it took you a while to pay him off?

22 A. Yes.

23 Q. But you eventually did pay him off?

24 A. Yes, we did.

25 Q. Okay. Now, you also need a monitored fire

1 alarm system for the dome building; is that correct?

2 A. Yes, sir, uh-huh.

3 Q. Okay. And is it currently monitored?

4 A. Yes.

5 Q. Okay. So you got that up and running?

6 A. Yes, sir.

7 Q. Okay. Are you paying a subscription service
8 for the monitoring?

9 A. Yes, we are.

10 Q. Which service are you using?

11 A. Them, Medina Valley Security, whatever their --

12 Q. Okay. And they are monitoring the fire alarm
13 systems?

14 A. Yes, sir.

15 Q. Do you have any burglar alarm systems?

16 A. Yes.

17 Q. Okay. And are they monitoring those as well?

18 A. Yes.

19 Q. Did they install those?

20 A. No. I don't believe they did.

21 Q. And where did you get those?

22 A. No. Those were already in the building when we
23 moved in.

24 Q. Okay.

25 A. They came in and, you know, updated them and

1 got them all up to code, but I don't believe that they
2 installed them. They were already there.

3 Q. I'm going to deviate real quick. There was an
4 issue with regard to you putting up a sign. Do you
5 remember applying for a sign permit?

6 A. We went down there and we put a small banner
7 over one of the areas of the -- of our church. And I
8 don't remember the chronology of this, but either the
9 banner was up and someone called us and said, you need a
10 permit for that thing or we went down there.

11 But whatever the case was, we went down
12 there. My wife, I took her to lunch, and I said, you
13 know what, we are right here by Leon Valley. Would you
14 mind going in there and write this check off so we can
15 get a permit for our little banner.

16 And she wrote the check. And another lady
17 was about to hand her the permit and another lady, I
18 wasn't in there, said, no, no, no. We are not doing
19 anything with that. We are in litigation with them. We
20 are not going to do anything.

21 So my wife said that the lady that was
22 about to issue the permit and said, okay, you know, not
23 ugly, not confrontational, she just said, sorry, I can't
24 help you. So basically we went up and I think in a few
25 days took the banner down.

1 Q. Okay. What did the banner say?

2 A. Restoration Center.

3 Q. Did it say anything else?

4 A. If you know it said something else, tell me.
5 That's what I remember.

6 Q. Okay. Do you remember it saying something
7 about when church services were going to be held?

8 A. Not on the banner, no.

9 Q. Okay. Have you had a sign that says when the
10 church services are going to be held?

11 A. We fixed -- There's a large sign that is on the
12 road. Okay. And we put something like -- something
13 very loving like God loves this city and so do we. And
14 it had our church service times there. But Leon Valley
15 sent us a picture and said, you have to remove that.
16 You don't have a permit for it. But this time, they did
17 grant it. When we went down there to get it, they did
18 grant a sign permit. So we can put signage up now.

19 Q. Okay. If I remember correctly, that's a
20 changeable face billboard sign?

21 A. Yes. It's the old kind of --

22 Q. Where you have got a big pole and you put up
23 each letter?

24 A. Yeah. I don't know if it's to our advantage to
25 even use it, but we do.

1 Q. Okay.

2 MR. WHITWORTH: That's the one the kids
3 steal the letters from, right?

4 THE WITNESS: Yeah, or they throw rocks at
5 it.

6 Q. (BY MR. HENRY) Okay. But the city did grant --

7 A. Yes, they did.

8 Q. -- you a permit?

9 A. Yes, they did.

10 Q. Okay. But not for the banner sign?

11 A. No. That was -- The sign I'm talking about
12 there was probably within the first week or two we were
13 there.

14 Q. Okay. Now, you -- On the changeable billboard,
15 for lack of a better word, you also I guess stenciled or
16 painted on it the Restoration Center as well?

17 A. Yes.

18 Q. Okay.

19 A. That was -- I thought I was being compliant to
20 the fire marshal. It says the Restoration Center. And
21 then underneath it, it says 6401 Bandera Road.

22 Q. You need your address on it?

23 A. And, you know, something that says your name
24 and your address in case we get a call they know from
25 the road. This is the Restoration Center. This is the

1 address.

2 Q. Okay.

3 A. And those are in six-inch letters that I had to
4 pay twice for because the first ones were only
5 five inches. They had to be six.

6 Q. Any other sign issues?

7 A. No. I mean, that seems to be -- The only sign
8 issues that we have now really is we are actually
9 purchasing a sign, but we have the initial permit. But
10 permits that they will need for the sign, the sign
11 company takes care of all of that.

12 Q. Okay.

13 A. And we haven't decided on the logo or what we
14 are going to name the school and all of that. So
15 that's --

16 Q. You have had a lot of electrical work done on
17 both the dome building and children's building, correct?

18 A. Uh-huh.

19 Q. Okay. Have they been performed by a licensed
20 electrician?

21 A. The two on the outside -- there's two
22 licensed -- there's two licensed companies that did work
23 for these buildings. The first guy was a licensed guy
24 and he -- because they have to go --

25 The electricians get the permits. We

1 don't. And they have to have an electrical license.

2 And then the next guy that did the dome, the same thing.

3 Q. Who was the first guy, what was his name?

4 A. Rodriguez, Johnny Rodriguez.

5 Q. Okay. Does he own his own company?

6 A. Yes.

7 Q. Does he work for a particular company?

8 A. I don't remember what it's called.

9 Q. Okay.

10 A. But we have large checks that I can check out
11 where he was. But -- but these guys did work in the
12 area and they knew -- they knew Mr. Bealor. I mean,
13 they know the guy.

14 Q. Okay. So he was a licensed electrician. What
15 about the second guy, what was his name?

16 A. Yes. He was absolutely licensed as well. What
17 you are talking about is --

18 Q. What was the second guy's name first?

19 A. Luis -- I don't remember his last name. I can
20 get it for you by the end of the day or first thing
21 tomorrow.

22 Q. Well, if you can just tell your lawyer so he
23 can tell us. I tell you what, we will leave a blank --

24 MR. WHITWORTH: Leave a blank space.

25 Q. (BY MR. HENRY) -- in the depo and then you can

1 write his name in.

2 A. Okay.

3 MR. WHITWORTH: Absolutely.

4

5 (Information to be supplied)

6 THE WITNESS: One of -- Where Leon Valley
7 is, their contention is or Mr. Valdez's contention is
8 that Luis got the permit to do all of the work on the
9 outside.

10 We have a licensed electrician who is part
11 of our congregation who volunteered to do the internal
12 work which means I'm just going to run wires to the
13 boxes and then they hook up.

14 Mr. Valdez came and inspected, and he
15 said, who is the licensed electrician that's working on
16 this. And our guy said, well, I am. And Mr. Valdez
17 said, let me see your license, and he showed it to him.
18 And then later on he came back and said, no, you have an
19 apprentice license. We need a journeymen's license for
20 this and for the work that you did.

21 Now, what we can do is -- you know, this
22 guy, the apprentice, was an employee of the first
23 electrician. Okay. And was an employee because I think
24 the second electrician paid him to help him do some of
25 that work.

1 Q. (BY MR. HENRY) What is this congregate's name?

2 A. Steven Hernandez.

3 Q. Okay. So go ahead.

4 A. That was it.

5 Q. Okay.

6 A. That -- Mr. Hernandez showed him his
7 apprentice's license. And then we got a phone call from
8 Mr. Valdez that says, no. That was wrong and, you know,
9 made a big old fuss. It should have been a journeyman's
10 license.

11 Now, if we want to make a contention out
12 of this, this guy may not have been on the payroll, but
13 they were absolutely in contact with each other on a
14 daily basis. And I'm sure this Luis guy will testify
15 that I was in some type a supervisory role with him
16 because he wasn't doing anything else than his workers
17 were doing. Luis would come, drop his electrical
18 workers off, and we wouldn't see him again. I don't
19 think I saw him but twice.

20 Q. Did you pay Mr. Hernandez directly?

21 A. No.

22 Q. How did you pay him?

23 A. I didn't pay him. He was a volunteer. He's an
24 electrician in our church that volunteered to run all
25 the wiring, and that was a big blessing for us.

1 Q. Okay. But you didn't pay the Luis --

2 A. Oh, yes, I did.

3 Q. -- so-and-so for any internal work?

4 A. Well, some because they have to hook out --
5 they have to -- they have to hook up because the -- Mr.
6 Bealor or someone has to come and inspect their work at
7 the box, and then in the inside box. So they have to do
8 that.

9 What Mr. Valdez was talking about was
10 those light switches that would get a little bit hot,
11 and Steven did that work.

12 Q. You didn't pay Luis, for lack of a better word,
13 the electrician named Luis, to do the light switches and
14 he contract with Mr. Hernandez?

15 A. No. That didn't happen.

16 Q. Okay.

17 A. No.

18 Q. Okay. Have you done any other electrical work
19 on the properties?

20 A. None more than I have told you.

21 Q. Okay. Have you done any other modeling or
22 repair work?

23 A. We have done landscaping. No, nothing that,
24 you know -- There has been cleaning, but there hasn't
25 been any remodeling per say.

1 Q. Any painting?

2 A. Yeah, painting.

3 Q. Okay. Any drywall work?

4 A. No.

5 Q. Okay. Any structural repair work?

6 A. No. We are getting bids for some of that
7 stuff, but we haven't done anything yet.

8 Q. Okay. Now, you haven't opened the day care
9 yet?

10 A. No.

11 Q. Okay. When is your anticipated time to open
12 it?

13 A. Well, what we are doing now because it's --
14 it's taken this long is we need to raise a little bit of
15 money to assure that we can have three months of -- you
16 know because when you open, you have to pay teachers and
17 things of that nature.

18 We were hoping to have everything done by
19 January so we could open up this semester. But we will
20 probably start gearing up to open up in August for the
21 school year.

22 Q. Okay. Are you currently doing any counseling?

23 A. Yes.

24 Q. Okay. And how long have you been doing
25 counseling in the Bandera Road location?

1 A. I mean, we do counseling through -- we do
2 counseling through referrals from our congregants since
3 we got there probably. But through the courts, we just
4 were able to start doing that probably two weeks ago.

5 Q. Okay. And is TCAL operational right now?

6 A. Yes.

7 Q. Okay. And all of these are basically officed
8 out of the Bandera Road --

9 A. Yes.

10 Q. -- location? Okay. But you are hoping to move
11 offices from the children's building over to the dome
12 building?

13 A. Right. You know, everything is set up. We are
14 just waiting to --

15 Q. Okay. For the dome building, you have a
16 temporary certificate of occupancy?

17 A. Right.

18 Q. And have you listed the same use for that dome
19 building?

20 A. To be honest with you, I don't know what we
21 listed that as. I think we put administrative offices.

22 Q. Administrative offices. Okay.

23 A. Because for some reason, if we used the
24 classrooms in the children's building, we would --
25 our -- the number of children we would be able to

1 service would be lower. So we -- we have to have the
2 offices over there.

3 Q. Okay. And correct me if I'm misinterpreting
4 your testimony.

5 A. Okay.

6 Q. I think my understanding is you want to have
7 the day care operational for the administrative -- for
8 the children's building, and then build up to putting
9 sprinklers in to expand to infants later; is that
10 correct?

11 A. Yes.

12 Q. Okay. All right. But right now, you are going
13 to be limited to children over the age of two-and-a-half
14 years?

15 A. Yes.

16 Q. Okay. And you have, in fact, received your
17 license from the city?

18 A. Yes, we have.

19 Q. Now, is your understanding that the city is the
20 only regulatory agency you have to apply to?

21 A. No. It's the state. The city -- the city is,
22 if I'm not mistaken, overseen by a state office because
23 we -- we send stuff to Austin and then we have stuff
24 here as well.

25 Q. Okay. So you apply to the city office, but

1 they coordinate with the state to get you your license?

2 A. Yes.

3 Q. And that's your understanding?

4 A. Yes.

5 Q. Okay. And you have since received that
6 license?

7 A. I believe we have.

8 Q. Okay.

9 A. I haven't physically seen it, but someone told
10 me the other day we -- the licensing representative went
11 ahead and approved us. And that doesn't mean you get
12 the license. That could mean the license is being
13 mailed.

14 Q. Okay. Did a member of your staff -- Who did
15 all the filling out of the --

16 A. Trascilla Saucedo.

17 Q. Okay. So Trascilla is the one that basically
18 applied for everything, right?

19 A. Yes.

20 Q. Okay. She did all the grunt work?

21 A. Exactly.

22 Q. Okay. Now, she was the one helping out with
23 the day care over on Culebra, right?

24 A. Right.

25 Q. So she was already familiar with the way this

1 works?

2 A. Exactly.

3 Q. Okay. So you just kind of let her do it?

4 A. Exactly.

5 Q. Okay. How much involvement did you have with
6 that?

7 A. I signed the piece of paper.

8 Q. Okay. And that was it?

9 A. You know, every once in awhile -- and of course
10 arguing about the school name.

11 Q. Okay.

12 MR. WHITWORTH: And sign this check.

13 THE WITNESS: Sign this check, amen to
14 that, every Monday.

15 MR. WHITWORTH: Let me know when you get
16 to a good breaking point.

17 MR. HENRY: Actually, right now is a good
18 point. Let's go ahead and take a five minute break.

19 THE VIDEOGRAPHER: We are off the record
20 at 2:54 p.m.

21 (Exhibit 15 marked)

22 (Short break from 2:54 to 3:03)

23 THE VIDEOGRAPHER: This is Pastor Darryl
24 Crain Tape 3. We are on the record at 3:03 p.m.

25 Q. (BY MR. HENRY) Pastor Crain, you have been

1 handed an exhibit which is a photograph. Can you tell
2 me what exhibit number is on the bottom of that?

3 A. Fifteen.

4 Q. Okay. Do you recognize that?

5 A. Yes, I do.

6 Q. Okay. Tell me what that is.

7 A. That is a picture of the sign that I told you
8 that we put up. And the city sent us this and said we
9 didn't have the proper permit so -- and we had ten days
10 to take it down which we did.

11 Q. Okay. You then applied for a permit and
12 received a permit?

13 A. Right.

14 Q. And that's for this sign, correct?

15 A. Yes, sir.

16 Q. This is a photo of that sign?

17 A. Yes, sir.

18 Q. Okay. Does it accurately represent --

19 A. Yes.

20 Q. -- what the sign looks like?

21 A. Uh-huh.

22 Q. Okay. This is really a follow-up question.

23 MR. HENRY: Dan, there's your copy if you
24 want one.

25 MR. WHITWORTH: Now, you threw me there.

1 It's not "the" sign. It's a photo of the sign.

2 MR. HENRY: A photo of the sign, that's
3 right. I actually had a witness one time that would
4 clarify every single time I would say that. Is
5 this a pic -- is this the car? No. This is a picture
6 of the car.

7 Q. (BY MR. HENRY) All right. Pastor Crain, I want
8 to talk a little bit about The Elijah Group as it exists
9 right now, --

10 A. Okay.

11 Q. -- today. What is the children's building,
12 used for right now?

13 A. The children's building -- building is being
14 used for children and services and everything that we
15 have been using it for since we got in there.

16 Q. Okay. So it's being used for church services?

17 A. Yes.

18 Q. It's the planned use for the day care?

19 A. Yes.

20 Q. Okay. But you haven't started any day care?

21 A. No.

22 Q. Not as of today?

23 A. We have not.

24 Q. Hopefully in a little while?

25 A. Yes. What -- what we are doing is because of

1 the school, the age thing, we are looking at opening up
2 a school as opposed to just a day care where we would
3 have a kindergarten and things of the nature.

4 Q. Okay.

5 A. So we are still exploring those options, that's
6 why.

7 Q. While church services are going on, are you --
8 are you having any baby-sitting services?

9 A. We -- we call that, it's like a children's
10 church ministry.

11 Q. Okay.

12 A. Yeah. And, yes, those things do go on.

13 Q. Okay. But those only go on when you are
14 holding the services?

15 A. Right.

16 Q. Okay. Do they go on at any other time?

17 A. No.

18 Q. Okay. And you are currently doing counseling?

19 A. Yes.

20 Q. Is that coming out of the children's building?

21 A. Yes.

22 Q. Okay. That's where they are located?

23 A. Well, right now.

24 Q. Okay.

25 A. We are hoping to move over there, but we

1 haven't done anything like that yet.

2 Q. I understand. I'm just talking about today.

3 A. Yes.

4 Q. As of today. And the -- Was it TCAL (Tec/la)?

5 A. Excuse me?

6 Q. The T-C-A-L?

7 A. TCAL (Tee/cal).

8 Q. TCAL.

9 A. Yes.

10 Q. Thank you. Their offices are operated out of
11 the children's building right now?

12 A. Yes.

13 Q. Okay. And your -- The Elijah Group's
14 administrative offices are currently in the children's
15 building?

16 A. Yes, sir.

17 Q. Okay. And your hope is to move the
18 administrative offices over to the dome building.

19 A. Right.

20 Q. Okay. Are you going to move any church
21 services over to the dome building?

22 A. Eventually.

23 Q. Okay. Are you hoping for that anytime soon?

24 A. Yes.

25 Q. Okay.

1 A. As soon as possible.

2 Q. As soon as possible. All right. How far
3 off -- Are you going to do any day care services in the
4 dome building?

5 A. No.

6 Q. Okay. That's not your intended purpose?

7 A. No. And it -- it doesn't have the capacity for
8 that.

9 Q. It's a lot bigger square footage, correct?

10 A. Square footage. But it's basically a large
11 sanctuary --

12 Q. Okay.

13 A. -- and several offices. There's one usable
14 classroom in there for infants.

15 Q. Okay.

16 A. And we would just strictly use that on church
17 days.

18 Q. Okay. Are you going to do any counseling in
19 there?

20 A. Yes.

21 Q. Okay. Are there any other activities that are
22 part of The Elijah Group right now that you plan on
23 using in either the children's building or the dome
24 building?

25 A. We will do all kinds of things in those -- in

1 those buildings. I mean, once we get our certificate of
2 occupancy which I'm expecting this week, you know, I'm a
3 creative guy, man. We are going to do everything we can
4 think about doing in there.

5 Q. Okay. Do you have any plans for the moment for
6 any additional --

7 A. Absolutely.

8 Q. -- services or activities?

9 A. I'll tell you a great thing we are going to do.

10 Q. Okay.

11 A. We are going to have a night to honor Leon
12 Valley in October. And we are going to invite every
13 person in Leon Valley over the age of 60 to come to a
14 free dinner. We will set up in the dome, a -- a
15 banquet. And we will have, you know, catering and the
16 whole thing. The church will pay for it. It won't cost
17 anybody a dime. And we will just honor the people of
18 Leon -- the people over 60 years old of Leon Valley.

19 Q. Okay.

20 A. And we plan when this is -- all of the
21 litigation is over and we have won, we will do the same
22 thing to the mayor and the city council and the police
23 department. Give them a free -- and I don't mean
24 that -- you know, we are going to show them we are not
25 being --

1 Q. No hard feelings?

2 A. No. More than that. We are not -- not just no
3 hard feelings. We take seriously your job and we
4 appreciate --

5 You know, I appreciate what they are
6 trying to do. I can see their perspective. I run a
7 business. You know, if someone tells me you are going
8 to lose \$80,000 -- 75, \$80,000 a year, you have got to
9 take a hard look at that. You know, that's real. I
10 mean, I know that, and I appreciate where they are
11 coming from.

12 And when we do those things, we will do
13 that because we appreciate and we believe scripturally
14 that these people are put there by God, and we are
15 supposed to honor them. And we are not only believing
16 that, we are going to do it.

17 Q. Okay. I know you had sent in some
18 correspondence, whether it was an e-mail or letter, I
19 don't recall, to the mayor or the city manager
20 regarding --

21 A. Volunteer work.

22 Q. Yes, volunteer work. The court reporter is
23 going to kill you if you keep this up.

24 MR. WHITWORTH: I was going to say that's
25 news to me. Do you have a copy of that?

1 THE WITNESS: No, I didn't -- I didn't --
2 Sorry about that.

3 Q. (BY MR. HENRY) The -- the offer for volunteer
4 work, okay, did you receive a response?

5 A. Yes, we did.

6 Q. Okay.

7 A. We received a response from Lanny Lambert and
8 basically said -- what we did was we just offered -- we
9 said, look, we are going to be in litigation here for a
10 while. You know, we are getting our certificate of
11 occupancy in the dome.

12 While we are leasing it, at least, you
13 know, let us be of service to you, you know. And we had
14 received a nice letter back that said we don't have
15 anything going on right now, but this is the gentleman
16 who coordinates our community volunteer thing.

17 And we called him. And basically he said
18 the same thing. We don't have anything going on right
19 now. But if we need graffiti cleaned or trash picked up
20 or things of nature, we will give you a call.

21 Q. Okay.

22 A. And that's exactly what we wanted to do.

23 Q. Okay. So you made an offer to go out and help
24 with graffiti cleanup in other parts of the city?

25 A. Or anything that they wanted us to do?

1 Q. Okay. Trash pickup in other parts of the city?

2 A. Yes.

3 Q. Okay. Have you ever made any offer like that
4 before?

5 A. No.

6 Q. Okay. Had you made any offer like that to
7 San Antonio when you were over on the Culebra Road?

8 A. No. And it's not because we are in legal
9 things with them. It's because the City of San
10 Antonio -- You know, you are not going to have an affect
11 on the community like you are in Leon Valley.

12 And that's one of the reasons we are going
13 to enjoy being there so much is with the City of San
14 Antonio you say, hey, can we go clean up graffiti?
15 Sure. On 1604 by Bulverde or, you know, who knows what
16 kind of response you are going to get.

17 It's just not something that is going to
18 achieve a goal. And our goal is to honor those that are
19 in authority. And we do that on the micro level at Leon
20 Valley a lot differently than we could for the City of
21 San Antonio.

22 Q. Okay. How many members of your congregation
23 are there right now?

24 A. Members is a specific word because we have a
25 membership class.

1 Q. Okay.

2 A. Members in any church are not going to be
3 weekly attenders. Weekly attenders right now, we are
4 probably a little over 150.

5 Q. Okay. What are your members?

6 A. Seventy-five, something like that.

7 Q. Is that different than the weekly attenders or
8 is that consumed into?

9 A. Consumed into.

10 Q. Okay. And when you say members, what -- what
11 are those?

12 A. Members are people that come to church on a
13 regular basis, and you offer a membership class which
14 means you go for a one-day basically seminar on the
15 beliefs of the church, what our vision is, what are
16 mission is.

17 We tell them all of the different
18 ministries that we are involved in and give them an
19 opportunity to meet me on a more personal level, you
20 know, and things of that nature. And then we can
21 actually become a member so then we can actually begin
22 to plug them into ministry things.

23 Q. Okay. How many ministries do you have?

24 A. Four basically. Men, women, youth and
25 children.

1 Q. Okay. And what do these ministries do?

2 A. They minister to men, they minister to women,
3 and the youth, and they minister to children. And from
4 there, you know, if we have a men's ministry that may go
5 and they may meet, but they may go play basketball or
6 they may go do this or a couple of guys may go to a
7 hospital, that's not something that we are really
8 initiating.

9 What we try to do is just get a group of
10 guys together to initiate relationships and things of
11 that nature. Guys, women, children, youth, things of
12 that nature.

13 Q. Okay. And where do they normally meet?

14 A. In homes.

15 Q. In homes. Okay. So they don't meet on the
16 Bandera Road location?

17 A. Oh, I'm sorry. The men and women usually meet
18 at homes. The children meet at the church and the youth
19 meet at the church as well.

20 Q. Okay. Currently are they meeting in the
21 children's building?

22 A. Yes.

23 Q. Okay. And how often do those occur?

24 A. Once a week.

25 Q. Once a week. Okay. So walk me through real

1 quick your typical week. What happens to you and The
2 Elijah Group in a typical week? Start with Sunday.

3 A. Sunday morning, we wake up at nine o'clock.
4 Excuse me. Sunday morning, we wake up about six or
5 seven o'clock, and my wife kisses me all over my face
6 and tells me what a wonderful man and how lucky she is.

7 I take a shower. I shave two days a week
8 and that's one of the days I shave. I get dressed. My
9 wife and I leave church -- leave our house, excuse me,
10 at about 8:45 to 9:15.

11 We arrive at the church. My wife helps
12 lead music. And there's a team of musicians that arrive
13 as well. They go through some rehearsals. We have a
14 service that lasts between 90 minutes and two hours,
15 depending on how excited I get.

16 Q. And what time does the service usually start?

17 A. 10:30, and it's usually finished by 12:00 or,
18 like I said, 12:30 if I'm really on a roll. And during
19 that time, the children are dismissed to different
20 classrooms where people teach them, you know, the basic
21 Bible curriculum for kids.

22 We do all that. Usually go to lunch.
23 Usually I take a nap. Usually Sunday nights, I hang out
24 with my kids or I go play basketball. I stay up late
25 and I take Monday morning off. I get to the office

1 about ten o'clock, 11 o'clock, 12:00, 1:00, kind of
2 depending on how tired I am. We have staff prayer
3 from -- for about an hour or so.

4 Q. How many employees do you have?

5 A. That's a loose term because no one is actually
6 an employee. They are just volunteered staff.

7 Q. Okay.

8 A. We pay the one gentleman from TCAL \$500 a
9 month, but, you know, technically we don't -- we don't
10 even have to pay taxes on that because it's not enough.
11 But anyway...

12 Q. You have a staff meeting?

13 A. We have a staff meeting. And then my day
14 begins with, Pastor Crain, this person called, this
15 person called, this person is this. You know, Danny
16 Whitworth called, blah, blah, blah.

17 I hand out a to-do list to every one of
18 the volunteers that are there. This is what I want us
19 to work on this week. They begin making phone calls,
20 doing things, contacting people, so forth and so on.

21 Tuesdays and Thursdays, normally I see at
22 least two couples, sometimes more, for marriage
23 counseling.

24 Q. Do you charge for marriage counseling?

25 A. If they are nonmembers of the church, we charge

1 a 60-dollar fee.

2 Q. Okay.

3 A. All right. And that's just basically to make
4 sure they come back.

5 Q. Okay.

6 A. But if they are members of the church, we don't
7 charge them.

8 Q. And is it the member class only or returning --

9 A. Member church. What I mean by that is if they
10 are coming to church on a regular basis, we don't charge
11 them for counseling.

12 Q. Okay.

13 A. But if -- Normally, this is how they come to
14 church is through the counseling service.

15 Q. Okay.

16 A. So I'll meet with those people. And then, you
17 know, just like anybody else, I get 30 or 40 or 50 calls
18 a days for various different things and coordinating
19 things and, you know, kids.

20 Q. What happens on Wednesday?

21 A. On Wednesday night, we get to -- get to -- get
22 to church about six o'clock. The youth group meets in a
23 room. Children will meet in a room. I will meet with a
24 substantially smaller congregation than on a Sunday
25 morning, but we go through a systematic study of the

1 Bible or we have a prayer meeting, something along those
2 lines.

3 Thursday morning, I'm following up with
4 people. Thursday I have counseling as well, most
5 Thursdays. Fridays, you know, I'm getting ready for
6 Sunday and things of that nature.

7 Q. Okay. Do you do anything specific on Friday or
8 Saturday?

9 A. I say hi to my kids, you know. No, nothing
10 specific. We just get ready for Sunday.

11 Q. Okay.

12 A. On Saturdays it's a -- You know, we may have a
13 membership class on a Saturday or something like that,
14 but that's once every three months.

15 Q. Now, when you were on Culebra Road, do you have
16 a similar --

17 A. Yeah.

18 Q. -- pattern?

19 A. Yeah.

20 Q. Okay. And when was the day care opened?

21 A. What day care opened, the one on Culebra?

22 Q. Yes.

23 A. Oh, that was -- What did I say? That was in
24 2006, I believe. Is that what I said?

25 Q. I don't recall right now.

1 A. Something like that.

2 Q. Well, what --

3 MR. WHITWORTH: Are you talking about
4 daily?

5 Q. (BY MR. HENRY) Yeah, daily.

6 A. Everything I just said except I had to
7 oversee -- we did have a staff of about six or seven
8 people there, and I was involved in a lot more
9 counseling at the Culebra office.

10 A lot more of what we would call
11 one-to-one ministry, you know, because people were
12 coming in. And towards the end of that, we began to
13 take in adults from Child Protective Services, you know,
14 so...

15 Q. When was the day care's hours of operation?

16 A. 6:00 in the morn -- 6:30 in the morning until
17 six o'clock at night.

18 Q. And do you intend to continue those hours of
19 operation with the children?

20 A. We haven't decided yet.

21 Q. Okay. I want to talk to you a little bit about
22 your choice of location. Okay. You are in a B-2 zone.
23 I'll represent to you, you are in a B-2 zone.

24 A. Okay.

25 Q. Are you aware of any other churches that

1 currently exist in the same zone you are in?

2 A. In Leon valley?

3 Q. In Leon Valley.

4 A. No, I'm not.

5 Q. Okay. Do you know of any other churches in
6 Leon Valley?

7 A. Wait a minute. Yes, there would be because
8 there are some -- This is an assumption on my part.
9 There are some churches in strip centers on Bandera
10 Road, and I'm assuming they would be in B-2.

11 And the reason that they would be able to
12 be there is because, like I explained prior, the owner
13 of the building is paying taxes. So even though a
14 church may be in the strip center, they are not -- it's
15 not going to be a nonprofit, a tax exempt --

16 Q. Which ones are you aware of?

17 A. -- property.

18 Q. What churches are you aware of right now?

19 A. I wouldn't know the names. I have just seen
20 the signs.

21 Q. Where are they located?

22 A. On Bandera Road.

23 Q. Where on Bandera Road?

24 A. One of them is down by, what is that, Huebner.

25 It seems like it was a Spanish church. And then there's

1 a few that are kind of in the back where the 410/Jim's
2 kind of thing, back there. But again, I'm -- I'm 99
3 percent sure those are rented spaces.

4 Q. You don't know the names of them?

5 A. No.

6 Q. Okay. How many of them are there?

7 A. The ones I'm thinking of right now are three.

8 Q. Okay.

9 A. But that does not mean that there's -- they are
10 there for sure. That means I have seen a sign on a --
11 on a strip center.

12 Q. Okay. And what signs have you seen?

13 A. Church signs that I can't remember the names
14 of.

15 Q. Okay. You are making an assumption they are in
16 the same zone that you are?

17 A. Yes, absolutely an assumption. I do not know.

18 Q. Okay. When -- Did you ever look for a
19 location? You gave me some parameters earlier --

20 A. Right.

21 Q. -- of an area you were constantly looking for a
22 new location.

23 A. Uh-huh.

24 Q. Do you still have that file?

25 A. I have files with property in there,

1 absolutely.

2 Q. Okay. Would you be able to produce those?

3 A. Sure, yeah.

4 Q. Okay. The ones you have been collecting for
5 eight years?

6 A. Yes.

7 Q. Would you be willing to produce those to us?

8 A. Absolutely, yeah.

9 Q. Okay. I'll send your lawyer a request for
10 those.

11 A. Okay.

12 (Information to be supplied)

13 Q. (BY MR. HENRY) Did you look at any other
14 locations to relocate from Culebra?

15 A. Like I said before, we were always looking,
16 but, you know, it's just -- There's so many different
17 variables. Number one, building is incredibly
18 expensive. Remodeling is incredibly expensive. You
19 know, there's -- Location is incredibly important. All
20 of those things factor in.

21 So, you know, we may see a piece of land
22 and say, that would be a great church and then it's just
23 out of our price range. We may see a warehouse that we
24 say, that wouldn't be bad, but it's not where we want to
25 be.

1 So we were really looking. And I have got
2 to tell you and without spiritualizing this in any way,
3 I was praying for a specific thing. I wanted to buy a
4 church that was already built because the -- because of
5 the cost factor, plain and simple. And, you know, I was
6 praying for something that that would happen.

7 I would never pray for a building, you
8 know, a church to go under or anything like that. But
9 we looked at another facility. It was just too far
10 away. I mean, we didn't --

11 Q. Which facility did you look at?

12 A. It was on 1604 and Lockhill-Selma. It's still
13 for sale today.

14 Q. Is that inside San Antonio?

15 A. Yes, it was.

16 Q. Okay. But you said it's too far away for you?

17 A. And it would be one of those things. It was
18 1.5 million and it needed at least a million dollars
19 worth of work. You know, it was just a tragic story.
20 And, you know, it was one of those things where, well, I
21 guess, maybe, kind of...

22 But this brings us to another point. We
23 have to have a specific deal, Ryan. Because like I told
24 you before, we don't have 100,000. We don't have
25 200,000. We don't have 30,000. So the financing of our

1 property has to fall into specific parameters.

2 The finance company that we have used --
3 or that we are using allows us to borrow up to
4 80 percent of appraised value, not 80 percent of asking
5 cost, asking price.

6 So we are looking for a building that's
7 appraised for a lot, selling for a little so we don't
8 have to put money down. And that building on
9 Lockhill-Selma, even if we wanted to do it, it wouldn't
10 fit in those parameters because it's appraised just
11 about what they are asking for, maybe a little bit but
12 nowhere near 20 percent.

13 When this building came available, the
14 reason I did not want to go look at it is because it
15 absolutely is perfect for us. I mean, it's absolutely
16 everything...except for the dome. I wouldn't build a
17 dome. But everything is just absolutely -- it's where
18 we want to be. It's -- you know, it's just perfect for
19 us.

20 Q. Except it's in the wrong zone?

21 A. That is a matter of opinion.

22 Q. Is it your opinion that it's in the right zone?

23 A. Yeah, absolutely.

24 Q. Okay.

25 A. And I mean, that I wouldn't -- I wouldn't do it

1 if I didn't think -- if I felt like I wasn't doing
2 something that didn't have integrity or if I felt like I
3 was having to bend the rules to get around, I don't
4 think we would have done it. But I feel like I respect
5 you. I respect the city's position. I just feel like
6 it was -- it was -- once I learned what had been done...

7 If that was a property, say, down the road
8 a little bit right off of Bandera that there was never a
9 church there, and it was zoned the way that you are --
10 the B-2 or B-3, whatever the right one or wrong one is,
11 I don't think -- well, I don't -- I know 100 percent I
12 wouldn't have fought it because there has never been a
13 church there. This is the way the city wants it.
14 That's it.

15 But this is something where there has been
16 an established church there for the last 12 to 15 years,
17 you know. And that's the reason that we are in the
18 position that we are in.

19 Q. Okay. Do you feel you have a constitutional
20 right to have a church there?

21 A. Absolutely. Absolutely positively.

22 Q. Okay. What is your current financing for the
23 purchase of the Bandera property?

24 A. We are just in a lease position right now.

25 Q. Okay.

1 A. When we -- The financing is based on an
2 executable bill of sale which we don't have now. What
3 our financing is -- is -- right now is when we close, we
4 have everything set up. It's just -- because we have an
5 appraisal that's here, and we have a bid that's here.
6 So that all matches up.

7 Q. What's the appraised value?

8 A. A little over \$3 million.

9 Q. Okay. Do you know that GoldStar challenged the
10 appraisal?

11 A. I'm sure they did for the tax purposes,
12 absolutely.

13 Q. Yeah. Do you know the result of that
14 challenge?

15 A. No, I do not.

16 Q. Okay. Do you know if that challenge will have
17 any impact on your financing?

18 A. No, it won't because it's not going -- they
19 are -- it will -- it will drop some, I'm sure, but it's
20 not going to drop to where it's going to affect us.

21 Q. Okay. Have you -- since the litigation has
22 occurred, have you looked at any other buildings in Leon
23 Valley that you can go to?

24 A. There are no other buildings in Leon Valley we
25 could go to.

1 Q. Okay. Did you look?

2 A. There is a Petco on 410 that was suggested to
3 us that was 11,000 or -- no, no -- 23,000 square feet.
4 I can't remember. That would mean we would be paying
5 somewhere in the neighborhood of \$18,000 per month to be
6 in that building. We can't go there.

7 There is a warehouse off of Reindeer that
8 we looked at that we would be paying -- these are all
9 leased facilities, that we would be paying somewhere in
10 the neighborhood of five to \$9,000 a month, but it would
11 take another 250,000 minimum to renovate it to fit our
12 needs.

13 There is land that would be where we are
14 at, but it's in the wrong zoning. And I'm not going to
15 fight it. I mean, to me, that's an unwinnable fight,
16 you know. It's zoned -- It's never been a church. Why
17 would they make a church now?

18 There are no other buildings, and -- you
19 know, none. There are no other buildings that will fit
20 our needs because there are no other churches.

21 This is a church. It has been a church.
22 It was built by a church for a church to be used by a
23 church. There is no other building that fits that
24 description or comes close. We are not interested in
25 leasing a facility. We were leasing our other facility.

1 We want to get into a place where we can
2 expand and, you know, that's exactly where we were.
3 There is nothing -- I would venture to say, Ryan, there
4 is nothing like this facility, you know, not just in
5 Leon Valley. There's nothing like it in Helotes.
6 There's nothing like it, you know, in the San Antonio,
7 you know, north -- northwest side.

8 Q. Okay. The two leased facilities you mentioned
9 that would basically be too expensive, you would have to
10 renovate, are they in the proper zones?

11 A. I don't know.

12 Q. Okay.

13 A. But remember, when you are leasing, it doesn't
14 matter. They would allow us to lease a building. They
15 don't care if we are a church or not because a lease --
16 the property owner is paying the taxes.

17 Q. That's your understanding?

18 A. That's a fact. I mean, if I'm in a lease -- I
19 have been in several before. I pay a per square --
20 square footage charge plus what they call a triple net,
21 and part of that is your insurance, your taxes and
22 general upkeep to the building.

23 You know, if I'm in a leased facility the,
24 you know --

25 Q. You don't think the city would have a problem

1 with you leasing a facility for a use that isn't zoned
2 to be used that way?

3 MR. WHITWORTH: I think Ryan is talking
4 about the zoning designation, right?

5 MR. HENRY: Zoning classifications.

6 THE WITNESS: Okay. I'm --

7 MR. WHITWORTH: You are thinking of
8 something else.

9 THE WITNESS: I'm sorry. I get where you
10 are coming from. And I think where you are coming from
11 is the right area and I'm in the wrong one.

12 Q. (BY MR. HENRY) Okay. Do you know if those two
13 buildings are B-3 which permits churches?

14 A. No idea.

15 Q. Okay. They could be. They may not be. You
16 don't know?

17 A. Right.

18 Q. Okay. Are you familiar with any other what you
19 have classified in the lawsuit as assembly uses that are
20 nonsecular that are in the same zone you are in?

21 A. Nonsecular or religious is what you are saying?

22 Q. Nonreligious.

23 A. Nonreligious.

24 MR. WHITWORTH: Secular?

25 Q. (BY MR. HENRY) I'm sorry. Secular. My fault.

1 A. Okay. What you are looking at is I think the
2 bowling alley.

3 Q. I'm asking you. What are you looking at?

4 A. I don't know specifically. I'm just giving you
5 examples. And none of these examples have any kind of
6 credibility behind me giving them other than me -- I'm
7 putting out a couple of examples for you.

8 The bowling alley, when I was talking with
9 the mayor and Mr. Lambert and the city staff person who
10 I don't know her name, the city staff person told me
11 that there was someone interested in the property that
12 was going to make it into a theater type production,
13 that would be an assembly. So I mean --

14 Q. Okay. Do you know of any other assemblies, as
15 we are talking about today, that are in the same zone as
16 you are?

17 A. Currently?

18 Q. Currently.

19 A. I don't know the zoning. You know, I don't
20 know -- I'm not familiar at all with the zoning. Let me
21 just say that. But I'm assuming the bowling alley right
22 down the street on Bandera is in the same zone.

23 Q. Okay.

24 A. And that's an assembly.

25 Q. Okay.

1 A. I mean, it really --

2 Q. I'm saying you should treat it --

3 A. I mean, it really -- isn't it really determined
4 on what you define assembly as, I mean?

5 Q. Well, in your lawsuit --

6 A. Okay.

7 Q. -- you say that there are other assemblies that
8 are nonreligious assemblies that are allowed to exist in
9 a B-2 zone, the zone you are currently in.

10 A. Okay.

11 Q. And if they can exist there, then your church
12 should be permitted to exist there.

13 A. Absolutely.

14 Q. Okay. So I'm asking you, what do you mean by
15 assemblies in your lawsuit?

16 A. Okay. What I mean by assemblies in my lawsuit
17 that my lawyer drafted on my behalf is the word assembly
18 there would mean -- I'm sure it has a broad definition,
19 but people gathering together for any kind of function.
20 If I'm going bowling, my family showing up is an
21 assembly.

22 Q. Okay.

23 A. We are assembling at the bowling alley. I --
24 The bowling alley on this property -- well, it's not on
25 here -- is not one mile away from us right off of

1 Bandera Road.

2 Q. Okay.

3 A. That is a nonreligious assembly area. There is
4 game shops like where you go play video games. I mean,
5 for goodness sake, there's a Pizza Hut. I mean, it
6 just -- You know, everything can be called an assembly
7 per se.

8 Q. And is that your definition of assembly in your
9 lawsuit?

10 A. Remember, I don't know what the legal
11 definition is. You are asking me my opinion.

12 Q. Yes. I'm asking your opinion.

13 A. That's why we pay the lawyers the big money.

14 Q. Okay. So you are aware --

15 MR. WHITWORTH: Big money?

16 THE WITNESS: Little money, any money.

17 Q. (BY MR. HENRY) Are you aware of any assemblies
18 in the same zone that you are that you think are treated
19 better than you are being treated right now?

20 A. Well, I think it kind of goes to the same thing
21 we have already said. That's just --

22 MR. WHITWORTH: Let me object as asked and
23 answered. I think you have already said the theater, a
24 bowling alley and a restaurant.

25 MR. HENRY: I'm asking any others.

1 MR. WHITWORTH: Do you want other
2 examples?

3 MR. HENRY: Other examples.

4 THE WITNESS: Let me -- let me -- well, I
5 mean, the thing is --

6 MR. HENRY: I want to exhaust his brain on
7 that question.

8 THE WITNESS: Every time you say that
9 though, the court reporter wants to knock me. If --
10 Let's just take this example.

11 If there was going to be a theater there
12 that the city themselves said we would welcome, there is
13 no way there is going to be a theater there. No one is
14 going to pay that kind of money to make that thing a
15 theater. It's not going to happen.

16 And by the way, if anyone would have came
17 in with a reasonable bid, GoldStar is not trying to
18 just, you know -- I mean, if they are going to accept --
19 they are going to accept --

20 If a theater came in with a higher bid
21 than us, they would have sold it to the theater. I know
22 they would have.

23 But if you allow a theater in there,
24 that's an assembly. That's not even wanting to have a
25 night to honor Leon Valley like we would. That is a

1 difference. That's an obvious difference. That's not
2 just, you know, poor Pastor Crain who went to Podunk
3 university. I mean, that's as clear as the nose on your
4 face different.

5 If are you saying we would allow a theater
6 to be in here, but we will not allow a church to be in
7 here and a theater is defined as an assembly of people
8 to watch a production, nothing wrong with that, but a
9 church group is an assembly to worship the Lord for an
10 hour and a half. Same time frame. You know, whatever.
11 That is absolutely a difference. You know, there is no,
12 you know -- there's -- is it me? And that's a
13 difference, isn't it?

14 Q. (BY MR. HENRY) I'm asking you. Do you think
15 it's a difference?

16 A. Yes, absolutely. Absolutely unequivocally.

17 Q. Okay. Any other assemblies that you can think
18 of that would qualify for that?

19 A. In the Bible the Lord says where two or three
20 people are gathered in my name, I'm there in the midst
21 which the inference is, if there's two or three people,
22 that's an assembly enough for me.

23 So if you start on Bandera Road at 410, if
24 you have two or three people at that gas station that's
25 in the zoning, they are assembled. If you move up to

1 Henry's Puffy Taco, there's three or four people there,
2 they are eating, that's an assembly.

3 If you move up to Taco Cabana right next
4 to them, that could be an assembly. Across the street
5 to the bank building, there's several businesses in
6 there. If three or more people or more meet there for a
7 common thing, we are assembled in this building, they
8 are having a meeting, absolutely.

9 We could go down to the Zorro's Restaurant
10 that just was opened up, they have assemblies there. If
11 a church group asked Zorro's we want to have an assembly
12 in your back room, they would say absolutely, come, you
13 know, eat your food, and have your little meeting.

14 If you went onto the car lot, if there's
15 three or four people assembling there, you know, to
16 discuss the price of a car, that could be an assembly.
17 Shipley Donuts has an assembly. I have assembled at
18 Rita's Taco Place as much as I can. We could go down to
19 the other restaurants.

20 All of those things, I believe, would fit
21 into the category of assembly. I'm not a legal mind.
22 But in my opinion, absolutely, if I was a lawyer, I
23 would definitely feel like I would be on pretty solid
24 ground to state that.

25 If you go down to the soccer shop right

1 next to -- right by Huebner Road that I talked about,
2 you know, those washed up athlete guys like to assemble
3 at the soccer shop and watch sports and talk their
4 thing, that's an assembly.

5 The Firestone across the street is an
6 assembly of guys because there is always some old car
7 out there. The skating rink is an assembly for
8 teenagers, you know.

9 Q. Is a day care an assembly?

10 A. Is a day an assembly, no, because you have a
11 primary purpose other than just meeting with people.
12 You have a primary purpose of watching children in my
13 estimation.

14 Q. Okay. Is counseling an assembly?

15 A. Yes.

16 Q. Okay.

17 A. Because in my estimation, two people are
18 meeting on an extended basis for, you know,
19 conversation.

20 Q. Okay. So that's an assembly?

21 A. No. I want to recuse that. I don't guess it
22 would be because you are coming for a specific reason.
23 Assembly to me has very few strings attached to it. We
24 can stay ten minutes. We can stay for two hours.

25 Q. Okay. Is church an assembly with a specific

1 purpose?

2 A. Absolutely. I would -- I would imagine so.

3 Q. So what strings are not attached to that one?

4 A. None. If we go have a prayer meeting on a
5 Monday, but we are going to go down to Plan Parenthood
6 and hold hands in the parking lot and not be offensive,
7 not talk to anybody ugly, but just pray, Lord, we just
8 pray that you move in these women that are coming
9 here... And I mean that. We were not confronting
10 anybody. No one would even know we were there.

11 If we were -- If a lawsuit was brought
12 against us, and they said you were assembling on a
13 parking lot, I think we would be found guilty.

14 Q. Are there any -- You say, in your mind, you
15 qualify a church as an assembly?

16 A. Right.

17 Q. Church services as an assembly?

18 A. Right.

19 Q. Okay. Are there any other assemblies based on
20 your definition that are similar to yours that currently
21 exist in the B-2 zone?

22 MR. WHITWORTH: You said in his opinion?

23 MR. HENRY: In his opinion.

24 THE WITNESS: I think -- I mean, the --
25 the list of names wasn't enough. You want more?

1 Q. (BY MR. HENRY) Do they all qualify? You think
2 they are all similar?

3 A. In my mind, if somebody calls me, Ryan, and
4 they say, hey, meet me up at Taco Cabana, and there's
5 three or four of us and we are sipping on coffee for two
6 hours, we are assembled.

7 Q. Okay. And do you think that allowing a Taco
8 Cabana restaurant to exist in a B-2 zone and allowing
9 assemblies to exist there is treating them better than
10 it's treating you because they won't allow a church to
11 exist?

12 A. Maybe not in that specific instance. But as a
13 general rule, absolutely.

14 MR. WHITWORTH: Objection. That calls for
15 a legal conclusion.

16 Q. (BY MR. HENRY) In -- You say not in that
17 specific instance. In your opinion, what specific
18 instances would qualify?

19 MR. WHITWORTH: Objection. Asked and
20 answered.

21 THE WITNESS: This is what I feel like
22 with all of this. The word assembly is -- can be taken
23 different ways. If I have a purpose to go to Taco
24 Cabana and eat a taco and I'm gone in 15 minutes, I
25 didn't assemble. If I have a business lunch, I really

1 didn't assemble.

2 But if I go with me and you and we all go
3 and we laugh this whole thing off and we invite you to a
4 night to honor Ryan, and we are there for more than 15,
5 20, 30 minutes, maybe it's just my background and we are
6 just sipping on coffee, and we are not really even
7 eating anymore, and we are doing what church people do,
8 just gab all night, we are assembled, man. I mean, come
9 on. What else do you call that?

10 Q. (BY MR. HENRY) Are you aware of any other
11 assemblies in a B-2 zone --

12 MR. WHITWORTH: Objection. Asked and
13 answered.

14 MR. HENRY: I haven't even finished yet.

15 MR. WHITWORTH: It's the same question.

16 MR. HENRY: No, it's not.

17 MR. WHITWORTH: It's getting abusive. You
18 have asked this question over five times now.

19 Q. (BY MR. HENRY) -- where they have more than
20 100 -- or 150 or more people assembled?

21 MR. HENRY: It's not the same question.

22 THE WITNESS: I can answer this by just
23 saying at the bowling alley every night, you know, there
24 is going to be more than 150. At the skating rink,
25 there's going to be more than 150. At Henry's Puff --

1 Puffy Taco, there's going to be more than 150. Maybe
2 not at the same time, but through the night, they will
3 probably triple that. You know, my answer is going to
4 be yes, absolutely. In my opinion, yes.

5 Q. (BY MR. HENRY) Okay. And those are the ones
6 you are giving me as examples?

7 A. That and the slew of the other ones that I gave
8 you before.

9 Q. Okay.

10 MR. WHITWORTH: Good enough. You have
11 answered the question.

12 Q. (BY MR. HENRY) Are you aware of any museums in
13 a B-2 zone that currently exist?

14 A. I don't believe there are any museums in Leon
15 Valley.

16 Q. Okay. Any libraries?

17 A. I don't -- There is a library in Leon Valley.
18 I have no idea what it's zone as.

19 Q. Any rec centers?

20 A. I don't know of any rec centers in Leon Valley.

21 Q. Liquor stores?

22 A. There are liquor stores in Leon Valley. I have
23 no clue what their zoning is.

24 Q. Okay. Auditoriums?

25 A. Well, we are an auditorium, I would -- I would

1 imagine.

2 Q. Any other auditoriums?

3 A. Well, I mean, that's a general word because you
4 could say the bowling alley is an auditorium. The
5 skating rink is an auditorium, you know.

6 Q. In your lawsuit, I think you list auditoriums.
7 What do you mean by auditoriums?

8 A. Anything like that.

9 Q. Okay. Are you aware of any that exist right
10 now?

11 A. A bowling alley, a skating rink, you know,
12 things of that nature.

13 Q. Any others?

14 A. Not that I know of.

15 Q. Okay. Now, you say you don't know the zoning
16 in the city?

17 A. No, I don't.

18 Q. Do --

19 A. Let me -- let me clarify that. I know that
20 there is zoning disputes. When you are asking me to
21 clarify these things, I really do mean that's why we
22 have attorneys because I'm not -- I'm just a pastor,
23 man. I don't know -- hardly know what I'm talking about
24 when I do know what I'm talking about.

25 Q. You may not know a particular zoning

1 classification that a particular property is located in;
2 is that right?

3 A. Right.

4 Q. Okay. But you are aware that there are
5 different zoning classifications?

6 A. Absolutely.

7 Q. Okay. And you know you are in one
8 classification and there are other classifications?

9 A. Right.

10 Q. Okay. So you know that all of Leon Valley is
11 not a zone -- a B-2 zone?

12 A. Right.

13 Q. You know there are different zoning
14 classifications?

15 A. Right. I am aware of that, yes, sir.

16 Q. Okay. Are you aware that there is a zoning
17 classification that permits churches to -- to operate?

18 A. Yes, sir.

19 Q. Okay. And you know you are currently not in
20 that zone?

21 A. I also know that that church was built in that
22 zone, and that's to me the sticking point.

23 Q. I understand that, but I'm -- I'm putting
24 together pieces.

25 A. Okay. You are saying do I know that it's not

1 zoned for a church now? Absolutely, I do know that.
2 That's why we are here.

3 Q. Okay. Now, I want to talk to you a little bit
4 about a couple of vague points in your lawsuit.

5 A. Okay.

6 Q. Okay. And it has to do with your alleged
7 injuries.

8 A. My injuries?

9 Q. Your injuries, or Elijah Group's injuries.

10 A. Okay. Okay.

11 Q. So your lawsuit is pretty clear that you want
12 to have the right to use that property for church use;
13 is that correct?

14 A. Yes, sir.

15 Q. Okay. Do you want the right to use that
16 property for any other use that you are not currently
17 permitted to do?

18 MR. WHITWORTH: Other than church use?

19 MR. HENRY: Other than church use.

20 THE WITNESS: Like day care and -- not
21 other than -- well --

22 Q. (BY MR. HENRY) Let me back up.

23 A. Yeah.

24 Q. Let me back up.

25 A. I don't get that question very good.

1 Q. Is it your understanding that you are permitted
2 to use that property for day care purposes that is
3 permitted in the zone that you are in?

4 A. Yes.

5 Q. Okay. And is it your understanding that you
6 are permitted to use that property for counseling
7 services. You are zoned for that?

8 A. I believe so.

9 Q. Okay. Is it your understanding that under the
10 zoning code, the zoning code says you can't use it for
11 church use -- or church assembly use?

12 A. Right.

13 Q. Okay. And you want to be able to use it for
14 church assembly use?

15 A. Yes, sir.

16 Q. Okay. Are there any other uses that are
17 prohibited that you are aware of right now that are
18 prohibited that you want to be able to use that property
19 for?

20 A. No. Not that I'm aware of, no, sir.

21 Q. Okay. Now, are you claiming any form of
22 monetary damage other than paying your attorney?

23 A. We are not attaching that to the lawsuit. But
24 if I wanted to be ugly, I could absolutely claim
25 monetary damages from all this nonsense about opening up

1 our day care.

2 It's zone for a school and a day care, and
3 it took five or six months for us to get that. And
4 that's five or six months of income we lost and -- I
5 mean, that's real money. I mean, that's not just -- I
6 can show --

7 You know, we wouldn't have had 30 kids to
8 start off with. I'm not saying that, but that's a real
9 issue. We are behind, and we have gotten behind on our
10 bills on that.

11 I'm going to give -- And I really mean
12 this. I don't think that Mr. Valdez or anyone in Leon
13 Valley was being malicious by telling us to change
14 things. I -- you know, I don't believe that those
15 costs, we have a right to go -- I believe we did things
16 the right way because there was a genuine need for us to
17 change things. So I wouldn't recant that.

18 But the extent that we can't open up a
19 school which it's zoned for and it's taking all this
20 time, I haven't -- we are not attaching that to this.
21 But, yes, I mean, I really do feel like that was
22 financial damages we have suffered because --

23 Q. But you are not seeking those in this lawsuit?

24 A. Not yet.

25 Q. Okay. And if you chose to seek them in the

1 lawsuit, do you have any estimates to what they would
2 be?

3 THE WITNESS: I don't know if I'm
4 comfortable answering that question.

5 MR. WHITWORTH: Just --

6 THE WITNESS: Speculatively probably 50 or
7 \$60,000.

8 Q. (BY MR. HENRY) Okay.

9 A. And that's speculative, I mean.

10 Q. I understand. But that would be based on lost
11 income for --

12 A. Not having a school.

13 Q. Okay.

14 A. And that also affects us because -- because
15 that money is not on our balance sheet. That affects us
16 when we are trying to purchase the facility.

17 Q. Now, in your lawsuit, you claimed -- Well, have
18 you suffered any direct monetary damages because of the
19 delay in closing?

20 A. Well, yes. I mean, really we have because
21 we're -- we're -- If we were able to do church the way
22 we want to do church, we could, you know, do activities
23 on the grounds. We would have a whole other freedom.

24 We don't do this to get money, to garner
25 wealth. But the plain, simple fact is, you are asking a

1 business to operate in a percentage of where they could
2 operate to -- to capitalize on their facilities. Do you
3 understand what I'm saying?

4 Q. Uh-huh.

5 A. We couldn't, you know, get into the dome or we
6 couldn't even -- I'm sorry. We couldn't get into the
7 children's building until we had to literally go in
8 there and, you know, provoke a lawsuit to get in there.

9 I mean, those are real issues because
10 there is no like if this doesn't work out for us, I want
11 to -- you know, I don't know if this matters, but there
12 is no option B we have, you know.

13 Right or wrong, this is where we are
14 believing God is leading us. I mean, I know that that's
15 not relevant to legal matters. But there is no, okay,
16 if we go here, we can go back there if this doesn't work
17 out.

18 This facility is not just -- I mean, this
19 is a church. It was built as a church. We are moving
20 into a church. That right there saves us hundreds of
21 thousands of dollars of repairs. I mean, the building
22 is built. Whether you like a dome or not, you know, the
23 building is already there. That, you know -- that's a
24 big, big deal.

25 And there is no other, oh, look at this

1 one or look at that one. There is no other comparable
2 property, you know. There is no other comparable
3 property within five miles whether it's in Leon Valley
4 or San Antonio.

5 Q. Comparable. Why is -- why aren't the other
6 properties out there comparable to this one other than
7 the fact that this one was already built as a church?

8 A. Ryan, what you just said is literally -- and
9 you know how much things cost. That's \$150,000. For us
10 to try to renovate a warehouse -- I mean, you know, I
11 was uneducated in all these things, but I think I have a
12 very good education now on trying to renovation things.
13 You are talking about drop ceilings, air-conditioner
14 loads. You are talking about plumbing issues.

15 We were going to renovate an Albertson's.
16 But we realized after spending \$250,000, we wouldn't be
17 able to have a day care because they don't have enough
18 bathrooms.

19 You know, you are asking -- I don't know
20 how to compare it -- compare it because there's -- the
21 business model is so different for a church. But if a
22 church is built and a church moves in, it's very
23 different than if we move into something that was built
24 as a whatever and we have to make it a church.

25 Q. My -- Okay. So what I'm getting from you, and

1 correct me if I'm wrong, is that one of the biggest
2 issues on this is it saves a lot on financing to go
3 ahead and move into a building already designed as a
4 church. That way you don't have to do renovations. You
5 don't have to purchase property?

6 A. Right.

7 Q. It saves you and your congregation a bunch of
8 time and money to have it already prebuilt for you?

9 A. Absolutely.

10 Q. Okay. And that's one of the biggest issues?

11 A. One of the issues. One of the other big issues
12 is in the area of town that we want to be in, there is
13 nothing comparable.

14 Q. Okay.

15 A. Nothing even close.

16 Q. Okay. The area of town you want to be in. And
17 were those the parameters you --

18 A. Right.

19 Q. -- gave me earlier?

20 A. Uh-huh.

21 Q. Okay. Was the Culebra --

22 A. Yes. It's in there.

23 Q. -- location in there as well?

24 A. Uh-huh, yes.

25 Q. Okay. And you have been looking in that area

1 for other comparables?

2 A. (Witness nodding).

3 Q. And the particular reason you wanted in those
4 boundaries are because that's where your congregation
5 is?

6 A. Basically.

7 Q. Okay. Now, are you aware -- In your lawsuit
8 you make an allegation that in addition to restrictions
9 on your freedom of religion, your ability to --

10 A. Right.

11 Q. -- operate a religious organization at that
12 location, there have been restrictions on your free
13 speech. I'm not sure what that is supposed to mean.

14 A. I think that that can mean maybe the way that
15 the sign permit was handled. You know, we are putting
16 up a banner. We are willing to pay for the banner
17 permit which was 25 dollars or something. And for
18 someone to say no, we are not going to give you that
19 because you are a church...

20 If I was Taco Cabana or Henry's Puffy Taco
21 or enumerable things, you would do it. Why won't you do
22 it now?

23 And although the banner was -- I mean, I
24 don't want to underestimate how unimportant this thing
25 was. I mean, it was maybe three by five. You know, you

1 could barely see it. But, you know, on the overall
2 scheme of things, if you will let the bike shop put up a
3 banner that says 20 percent off, and they pay for it, we
4 were willing to pay for it, why wouldn't they let us?

5 Q. Okay. Any other free speech issue that you can
6 think of?

7 A. Ryan, I have got to tell you that when you have
8 a man with a weapon in the middle of an assembly, that's
9 a free speech issue -- free speech issue to me. And Dan
10 knows that --

11 Q. Are you talking about Marshal Valdez?

12 A. Absolutely. That to me is a major free speech
13 issue.

14 Q. How so?

15 A. If we were assembling at Raymond Rimkus Park,
16 and we asked for security to be there, I would expect to
17 see security people there that would not be intimidating
18 whatsoever. We have done things like that.

19 But for all practical purposes, our leased
20 facility, that's our property. We are having a church
21 service and there's an armed marshal walking around, you
22 are intimidating. And that's exactly what he was doing.
23 I felt intimidated. I'm a nonconfrontational guy, man.
24 And that was intimidating, absolutely.

25 Q. And would you have felt intimidated if a police

1 officer was there doing the same thing?

2 A. Invited. If he was invited, I would not have.
3 If he was not invited and he's just patrolling and you
4 are, you know, giving a message... I mean, I used to be
5 a history teacher, man. That is -- that's --

6 Q. Okay. Any other free speech issues?

7 A. No. I don't think so.

8 Q. Okay. Now, you have made a claim for
9 attorney's fees. Okay. Now, my understanding is that
10 Mr. Whitworth's attorney's fees are paid for by GoldStar
11 at the moment?

12 A. Right.

13 Q. So you actually haven't paid him anything?

14 A. No, sir.

15 Q. Okay. Do you have any written agreement with
16 GoldStar if you are awarded attorney's fees to
17 reimburse?

18 A. Yes. Yes, we do.

19 Q. Okay. And that's a written agreement with you
20 and GoldStar?

21 A. Yes.

22 Q. Okay. And have you produced that agreement?

23 A. I don't think so.

24 THE WITNESS: Have we?

25 MR. WHITWORTH: I'm not sure it was asked

1 for, but we will get it to you.

2 MR. HENRY: Okay.

3 MR. WHITWORTH: That's not a problem.

4 *(Information to be supplied)*

5 Q. *(BY MR. HENRY)* All right.

6 A. I see the bottom.

7 Q. Yeah. We are not that far away.

8 A. I have got to charge double time.

9 MR. WHITWORTH: Ryan, I think you are
10 trying to sweat us out of here.

11 MR. HENRY: Yeah. I think the air
12 conditioning went out a little bit for some reason.

13 MR. WHITWORTH: For some reason, all of a
14 sudden it's hot again.

15 THE WITNESS: Okay. Good.

16 MR. WHITWORTH: It's really going out
17 there.

18 THE WITNESS: I thought that was just me.

19 Q. *(BY MR. HENRY)* Okay. What I want to do next
20 and hopefully next to the last, --

21 A. Okay.

22 Q. -- okay, is we sent you some discovery
23 questions.

24 A. Okay.

25 Q. Do you remember those?

1 A. Yes.

2 Q. Okay. And you signed a verification answering
3 the discovery questions?

4 A. Yes.

5 Q. Okay. I want to go through just a couple of
6 them that I had some questions about.

7 A. Okay.

8 Q. Okay.

9 MR. WHITWORTH: Do you have a copy he can
10 look at? I have one if you need it.

11 MR. HENRY: Let's see. Yeah, I do have a
12 couple of copies.

13 THE WITNESS: I think I brought mine.

14 MR. WHITWORTH: You have one and I have
15 one. Okay.

16 MR. HENRY: There you go, Dan.

17 MR. WHITWORTH: Thanks.

18 Q. (BY MR. HENRY) All right. That's just a
19 stapled copy of the various different production and
20 interrogatory and admission requests.

21 A. Uh-huh.

22 Q. Turn to Page 7 -- I'm sorry. Well, on the top
23 is a fax page, and it says Page 7 on the bottom.
24 Actually, it says Page 5. And it starts off with
25 Interrogatory Number 3 and Interrogatory Number 4. Do

1 you see that?

2 A. Yes.

3 Q. Okay. Looking at Interrogatory Number 4, lease
4 agreement, you have a lease agreement for the 6401
5 Bandera Road property.

6 A. Uh-huh.

7 Q. You had a lease agreement for the 8323 Culebra
8 Road property. Expired in February of '07.

9 A. Right.

10 Q. And that you will supplement with any -- with
11 the lease if you can find it. Have you been unable to
12 find it?

13 A. Yes. That's --

14 MR. WHITWORTH: I think he said -- Did he
15 say today he didn't have one that's the --

16 THE WITNESS: No. I think I have a
17 lease -- I think I do have a lease, but we -- we messed
18 up here. That should say February of 2008.

19 Q. (BY MR. HENRY) February of 2008?

20 A. Yes.

21 Q. Okay. So you want to correct that today?

22 A. Yes, I do.

23 Q. Okay.

24 A. Because the lease was from February 2005 to
25 February 2008. It was a three-year lease.

1 Q. Okay. And you think you do have a copy?

2 A. I believe I do, yes.

3 Q. Okay.

4 A. Give me a day or two to search for it, but I
5 believe I can produce that.

6 Q. And you agree you can produce it if you can
7 find it, right?

8 A. Yes. If I can find it, I can produce it.

9 Q. Interrogatory Number 5 says that the --

10 MR. WHITWORTH: I'm writing all this down.
11 So I'm going to -- I'll shoot you an e-mail later.

12 THE WITNESS: Okay.

13 (Information to be supplied)

14 Q. (BY MR. HENRY) Now, the plaintiff, meaning The
15 Elijah Group, also owns the house occupied by Pastor
16 Crain as a --

17 A. Parsonage.

18 Q. -- parsonage at 10815 Hunters Way?

19 A. Yes.

20 Q. When was that house purchased?

21 A. I believe that house was purchased in 2007.

22 Q. 2007. Okay. Had The Elijah Group been
23 incorporated at that time?

24 A. No.

25 Q. Okay.

1 A. It was bought under Redemption Tabernacle
2 Ministries.

3 Q. Okay. Does Redemption Tabernacle Ministries
4 still have the title or the deed to that property?

5 A. No. You have to transfer it.

6 Q. Okay. /And did you transfer it to The Elijah
7 Group?

8 A. Yes, I believe we did.

9 Q. Okay. And do you utilize your home for any
10 gatherings or --

11 A. Assemblies?

12 Q. Yeah.

13 A. Every time we show up at the house, brother.
14 No. We -- we have people over all the time.

15 Q. Okay. Production Number 4 is just asking for
16 the Culebra lease. And you have already promised to
17 give that to us. Have you been in contact with anyone
18 from Church on the Rock?

19 A. I have had contact with them, but not
20 purposefully.

21 Q. Okay.

22 A. I took a counseling class or a continued
23 education class that Church on the Rock happened to be
24 giving in their new facility.

25 We have had people that have come back to

1 our church that used to attend that church because it's
2 in the area. And they don't mind me that much.

3 The friend that I talked about, Pastor Jim
4 Kingery, he doesn't go to that church anymore, but I'm
5 in regular contact with him.

6 Q. Have you ever talked to anyone in the
7 management or the administration division of Church on
8 the Rock regarding the Bandera property?

9 A. Yes, I have.

10 Q. Okay. And when have you talked to them?

11 A. I don't know exact dates, but pastoral staff,
12 and they didn't have good things to say about Leon
13 Valley. They said that they made it very difficult for
14 them even when they were there.

15 Q. Was that before you bid on the property?

16 A. Yes.

17 Q. Okay. Have you talked to them after?

18 A. Uh-huh.

19 Q. And what were the subjects of those
20 conversations?

21 A. The same thing, you know.

22 Q. Okay.

23 A. Not anything deep. Because as a general rule,
24 I don't like to bad mouth X in front of Y or whatever.
25 Just, you know, how's it going? If you remember the --

1 the issue came out in the Express-News a few months
2 back. They had an article about this. And a couple
3 of -- in Express, and I think it came out in one smaller
4 northwest distributed...

5 And I thought it was buried in a back
6 page, but a lot of people asked me about it. And one
7 pastor over there in particular asked me about it. He
8 was the teacher of my continuing counseling class, and
9 he was also in the administration, whatever.

10 Q. What was the subject of that article?

11 A. Just what's going on, nothing --

12 Q. This particular lawsuit?

13 A. Yes.

14 Q. Okay. Have you talked to them about any
15 equipment or anything they have left in the buildings?

16 A. Absolutely not.

17 Q. Okay.

18 A. I want to keep all that stuff.

19 Q. Okay. So you have --

20 A. If people come -- if people come to pick up
21 their stuff, have at it. But if not, it's ours.

22 Q. Has anyone that's identified themselves as
23 being from Church on the Rock come to you and said, we
24 still have stuff in your building, --

25 A. No.

1 Q. -- give it back to us?

2 A. No. Not other than what I said before, that I
3 assumed that that's what was going on.

4 Q. Okay.

5 A. But I don't have any, you know --

6 Q. When was the last time that happened?

7 A. Before we moved in.

8 Q. Before you moved in?

9 A. Yes.

10 Q. Okay. Luckily, you have answered most of my
11 questions for these, and I can speed through them a lot
12 faster now.

13 A. (Witness nodding).

14 THE WITNESS: Who likes the Tasmanian
15 Devil?

16 MR. HENRY: That would be Lowell Denton.

17 THE WITNESS: I have noticed --

18 MR. HENRY: He's one of our mascots.

19 THE WITNESS: I have noticed him.

20 Q. (BY MR. HENRY) Are you aware of any
21 neighborhood recreational facilities that are in a B-2
22 zone in Leon Valley?

23 A. It's like déjà vu. Recreational facilities in
24 a B-2 zone. The skating rink could be a neighborhood
25 recreational facility. The bowling alley could be

1 deemed as a neighborhood recreational facility.

2 There used to be a play area next to the
3 bowling alley that could be deemed as a recreational
4 area. Peter Piper's Pizza is definitely a recreational
5 area that's there right there on Bandera Road. You will
6 appreciate this, Ryan, but there is one of those dungeon
7 and dragons, Star Wars --

8 Q. Novelty shops?

9 A. -- novelty shops where guys can go and you
10 dress like Chewbacca or something like that. That would
11 be assemblies of some sort.

12 Q. Okay. Have you ever been given a criminal
13 citation for any activities that you have done or failed
14 to do while out at the Bandera location?

15 A. A criminal citation, I don't think so.

16 Q. Have you ever been given a ticket?

17 A. From Leon Valley?

18 MR. WHITWORTH: Personally or on behalf of
19 the church?

20 MR. HENRY: On behalf of the church.

21 THE WITNESS: Not that I know of.

22 Q. (BY MR. HENRY) No one has come to you and says
23 you are having a church service here. You are not zoned
24 for it. That's a violation. Here's a ticket?

25 A. No, not to me anyway. If they did to somebody

1 else, they didn't tell me about it.

2 Q. Well, if they did it to somebody else, wouldn't
3 that somebody else have to tell you if it's against The
4 Elijah Group?

5 A. Not necessarily. You know, Christian people
6 are different, you know. And depending on the guy they
7 gave it to... I mean, this -- I'm 90 percent sure this
8 did not occur, but what if they gave it to a visitor?
9 And the guy says, well, for sure, I'm never coming back
10 to this church. They are handing out tickets to
11 everybody.

12 MR. WHITWORTH: Ryan, and not to interject
13 too much, but I think what you are referring to is
14 somebody threatened to give him a criminal citation.

15 THE WITNESS: Oh, okay. Yeah. That was
16 when we -- the first or second Sunday we were in there.
17 Is that what you are referring to?

18 Q. (BY MR. HENRY) Well, I'm asking first if you
19 ever got one?

20 A. No, we did not. But what happened was I think
21 it was actually officer -- I mean, Fire Marshal Valdez
22 came prior to a service beginning on a Sunday morning.
23 And he walked in and kind of pretended he was, you know,
24 like, what's going on here. Are you guys having church
25 here? And everyone all of a sudden got nervous and

1 didn't know what to say and was stumbling over their
2 words and everything.

3 And then I think, you know, this is a
4 church. And, you know, he said, you guys can't be here.
5 And that's when the whole thing -- I'm not sure if he
6 used those exact words, but I think something like that
7 was threatened.

8 Q. Okay. Saying this -- this could be a potential
9 criminal violation?

10 A. Right, but nothing was ever --

11 Q. Okay.

12 A. That I know of, nothing was ever done.

13 Q. And he never wrote anyone in your church a
14 ticket?

15 A. Not that I know of.

16 Q. Okay. Now, you have since obtained a
17 certificate of occupancy for the children's building?

18 A. Yes, sir.

19 Q. For day care use?

20 A. Yes, sir.

21 Q. Now, before you obtained that in March or
22 April of '09 which I think is --

23 A. Yes.

24 Q. -- what you testified earlier to?

25 A. Right.

1 Q. We had an injunction hearing --

2 A. Right.

3 Q. -- in December of '08?

4 A. Okay.

5 Q. And in one of your answers, you say the
6 location was inspected and approved for church use by
7 Assistant Fire Marshal Valdez as he testified at the
8 hearing at the city's temporary restraining order and it
9 was later noted in his said inspection report.

10 A. If I said inspection report, then that we
11 speaking too much. I don't know if he -- if he did that
12 in the inspection report.

13 Q. Okay.

14 A. All I was referring to was his testimony.

15 Q. Okay.

16 A. I don't know if he ever -- if he, you know,
17 wrote that down.

18 Q. Okay.

19 MR. WHITWORTH: Which number is that?

20 MR. HENRY: That is Request for Admission
21 Number 10 on Page 13.

22 THE WITNESS: Okay.

23 Q. (BY MR. HENRY) I want to make sure I understand
24 your answer to this question. The question itself asked
25 you -- which you admitted and said you had not applied

1 for a certificate of occupancy for a church use for that
2 location.

3 A. Right.

4 Q. And that's consistent with your testimony
5 today, if I'm not mistaken, correct?

6 A. Right, yes, sir.

7 Q. And you admit, yes, you hadn't applied for one.
8 Are you taking the position that he somehow approved you
9 a certificate of occupancy for a church use at all?

10 A. No, I am not.

11 Q. Okay.

12 A. I'm saying what his testimony was, was that if
13 there was no zoning issue, we would be fine there.

14 Q. For a church use?

15 A. For a church use.

16 Q. Okay. And that's what you mean by this answer,
17 for number ten, Request for Admission Number 10?

18 A. Yes.

19 Q. Okay.

20 A. Right.

21 Q. If you can turn the page to Page 14.

22 A. (Witness complies).

23 Q. Okay. Look at Interrogatory Number 16. It
24 says please an itemized list of all damages, monetary
25 and nonmonetary, that the plaintiff intends to seek in a

1 lawsuit.

2 And you told me you are not seeking a lot
3 of damages at least, quote, not yet. You are going to
4 supplement. What other damages are you -- what damages
5 are you seeking in this lawsuit right now?

6 A. The damages I believe that we are seeking is
7 attorney's fees and a written apology on a Hallmark
8 card. Is that in there anywhere? No. I think that's
9 it. Just attorney's fees I think is what we are doing
10 right now.

11 Q. Attorney's fees. And I'll make an injection
12 here. I think what you are really looking for is you
13 want a declaration that you can use the property for
14 church use; is that right?

15 A. Good idea.

16 Q. Is that correct?

17 A. Yes, sir, that's exactly correct.

18 Q. Okay. And that's really what you guys are
19 seeking right now?

20 A. Yes, sir.

21 Q. Okay.

22 A. Good job, Ryan.

23 Q. I want to make sure we are all on the same
24 page.

25 A. There are so many pages. I don't know what

1 page I'm on anymore.

2 Q. If you could turn to Page 15, Interrogatory
3 Number 18.

4 A. Yes, sir.

5 Q. Gloria Barn Christian Learning Center is a day
6 care and Christian school operated by the plaintiff.
7 Was that the one on Culebra Road?

8 A. Yes, it was.

9 Q. Okay. And it has since been sold?

10 A. Yes, sir.

11 Q. And is no longer under that name?

12 A. Until the license changes with the city, it is
13 under that name.

14 Q. Okay.

15 A. But it could be, you know, kind of a d/b/a,
16 whatever the new business is.

17 Q. Okay.

18 A. But that will be done probably in the next week
19 to ten days because last week I was given all the final
20 paperwork and everything.

21 Q. Request for Admission Number 14, at the bottom
22 of Page 15. Based on your testimony today, I want to
23 make sure I understand, it sounds like that admission
24 has changed?

25 A. Yes.

1 Q. Okay. So do you have electricity to the dome
2 building right now?

3 A. Yes.

4 Q. Okay. And are all utilities connected to the
5 dome building right now?

6 A. Yes.

7 Q. Okay. But are you still working on a couple of
8 minor little things before your certificate of
9 occupancy --

10 A. Right.

11 Q. -- is finalized?

12 A. Yes, sir.

13 Q. Okay. Go to Page 16. Interrogatory Number 20,
14 this is basically asking for your hours of operation.
15 You listed them there. I think that's pretty
16 consistent, but is that how -- Are those your current
17 hours of operation of what happens right now?

18 A. We are open from about 8:30 to 5:00 every
19 Monday through Friday.

20 Q. Okay.

21 A. And that can go a little bit later depending on
22 counseling. And Wednesday until about nine o'clock, we
23 are there. On Sundays, we are there from about 9:00
24 a.m. to about 1:00 p.m. That's not the service times,
25 you know, the first people in and the last people out.

1 That's about how that goes.

2 Q. Okay. So the answer to this interrogatory
3 should probably be changed. Is that what you are
4 telling me?

5 A. Yeah. Let me look. Yes. And the reason -- I
6 want -- I want to say the reason that it was answered
7 like this is probably before the phones were put in.
8 Because the phones were put in, we weren't even officing
9 there. But as soon as the phones were put in, we all
10 kind of congregated there.

11 Q. Okay. And I believe these were answered on
12 February 4th of 2009. If you look at Page 2.

13 A. Okay.

14 Q. That's when your lawyer signed the certificate
15 of service.

16 A. Okay.

17 Q. And on Page 3 is your verification. I'll let
18 you know it says February 4th of 2009.

19 A. Okay.

20 Q. Am I correct based on your testimony -- and I
21 understand some of these answers are probably stale.
22 They are old right now?

23 A. Yes, sir.

24 Q. Okay. Because some things have changed since
25 then?

1 A. Yes, sir.

2 Q. Okay. Would you be willing to go through and
3 update them?

4 A. Absolutely.

5 MR. WHITWORTH: Absolutely.

6 MR. HENRY: Okay.

7 MR. WHITWORTH: I think I just did it.

8 THE REPORTER: What?

9 MR. WHITWORTH: I said I think I just did
10 it.

11 MR. HENRY: Let's take a quick five minute
12 break and let me go through my notes and make sure I
13 don't have anything else to ask you before I let you go.

14 MR. WHITWORTH: Let's take a quick five
15 minute break and go turn on the air conditioning.

16 MR. HENRY: Yeah.

17 THE VIDEOGRAPHER: We are off the record
18 at 4:12 p.m.

19 *(Off record from 4:12 to 4:22)*

20 THE VIDEOGRAPHER: We are back on the
21 record at 4:22 p.m.

22 Q. (BY MR. HENRY) Pastor Crain, have you -- other
23 than the lawsuit that you mentioned to us before with
24 regard to the purchase of the property when you were
25 with Nazarene in this lawsuit, have you ever been